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Message from the President of the United States, transmitting, in response to Senate resolution of January 2, 1889, a report upon the seal fisheries in Bering Sea.

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MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

In response to Senate resolution of January 2, 1889, a report upon the seal fisheries in Bering Sea.

FEBRUARY 12, 1889.—Referred to the Committee on Foreign Relations and ordered to be printed.

To the Senate:

I herewith transmit, in reply to the resolution of the Senate of the 2d ultimo, a report from the Secretary of State, with accompanying documents, in relation to the seal fisheries in Bering Sea.

GROVER CLEVELAND.

EXECUTIVE MANSION,
February 12, 1889.

TO THE PRESIDENT:

On the 2d of January last the Senate adopted the following resolution:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to the Senate all correspondence which may have taken place with the Government of Great Britain, in regard to the right of fishing, taking seal, or navigating in Bering Sea, or in any waters adjacent thereto; also the circumstances in regard to the seizure or release of any British vessels in or near said waters by the United States; also all regulations, rules, or directions which may have been promulgated by the Government of the United States, or any Department thereof, in relation to fishing or taking seal in said sea or waters; also to inform the Senate whether any rules or regulations concerning such fishing or taking seal are enforced against citizens or vessels of the United States which are not enforced against the citizens or vessels of other countries.

This resolution having been referred to the undersigned, he has the honor to submit herewith the correspondence requested. In addition to that which comes strictly within the terms of the resolution, there are also transmitted other correspondence and documents which throw light upon certain general questions involved. As heretofore announced to Congress, negotiations are pending with a view to the protection of seal-life in Bering Sea by international arrangement. Enough of the correspondence to disclose the general purpose and scope of the arrangements sought for is herewith submitted. Other correspondence on the subject, of a confidential character, and as yet incomplete, exists, but its publication at the present time and pending negotiations is not con-

sidered to be compatible with the public interest. None of the correspondence so withheld, however, has relation to the orders given for the regulation of the seizure of vessels engaged in sealing in Bering Sea.

Respectfully submitted:

T. F. BAYARD.

DEPARTMENT OF STATE,

Washington, February 12, 1889.

LIST OF INCLOSURES.

PART I.

Correspondence relative to the seizure of British sealing vessels in Bering Sea.

- No. 1. Sir L. S. Sackville West to Mr. Bayard. September 27, 1886.
- No. 2. Same to same. October 21, 1886.
- No. 3. Earl Idlesleigh to Sir L. S. Sackville West. October 30, 1886.
- No. 4. Mr. Bayard to Sir L. S. Sackville West. November 12, 1886.
- No. 5. Sir L. S. Sackville West to Mr. Bayard. December 7, 1886.
- No. 6. Same to same. January 9, 1887.
- No. 7. Mr. Bayard to Sir L. S. Sackville West. January 12, 1887.
- No. 8. Sir L. S. Sackville West to Mr. Bayard. February 1, 1887.
- No. 9. Mr. Bayard to Sir L. S. Sackville West. February 3, 1887.
- No. 10. Sir L. S. Sackville West to Mr. Bayard. February 4, 1887.
- No. 11. Same to same. April 4, 1887.
- No. 12. Mr. Bayard to Sir L. S. Sackville West. April 12, 1887.
- No. 13. Sir L. S. Sackville West to Mr. Bayard. July 8, 1887.
- No. 14. Mr. Bayard to Sir L. S. Sackville West. July 11, 1887.
- No. 15. Sir L. S. Sackville West to Mr. Bayard. August 11, 1887.
- No. 16. Mr. Bayard to Sir L. S. Sackville West. August 13, 1887.
- No. 17. Marquis of Salisbury to Sir L. S. Sackville West. September 10, 1887.
- No. 18. Sir L. S. Sackville West to Mr. Bayard. September 29, 1887.
- No. 19. Same to same. October 4, 1887.
- No. 20. Mr. Bayard to Mr. Garland. October 7, 1887.
- No. 21. Mr. Bayard to Mr. Garland. October 8, 1887.
- No. 22. Mr. Bayard to Sir L. S. Sackville West. October 11, 1887.
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- No. 24. Mr. Garland to Mr. Bayard. October 12, 1887.
- No. 25. Mr. Bayard to Sir L. S. Sackville West. October 13, 1887.
- No. 26. Same to same. October 13, 1887.
- No. 27. Mr. Bayard to Mr. Garland. October 13, 1887.
- No. 28. Mr. Garland to Mr. Bayard. October 15, 1887.
- No. 29. Sir L. S. Sackville West to Mr. Bayard. October 19, 1887.
- No. 30. Mr. Bayard to Sir L. S. Sackville West. October 22, 1887.
- No. 31. Sir L. S. Sackville West to Mr. Bayard. October 26, 1887.
- No. 32. Mr. Garland to Mr. Bayard. March 9, 1888.
- No. 33. Sir L. S. Sackville West to Mr. Bayard. March 26, 1888.
- No. 34. Mr. Bayard to Sir L. S. Sackville West. March 30, 1888.
- No. 35. Sir L. S. Sackville West to Mr. Bayard. April 2, 1888.
- No. 36. Same to same. April 18, 1888.
- No. 37. Mr. Bayard to Sir L. S. Sackville West. April 22, 1888.
- No. 38. Sir L. S. Sackville West to Mr. Bayard. April 30, 1888.
- No. 39. Same to same. May 25, 1888.
- No. 40. Mr. Bayard to Sir L. S. Sackville West. May 28, 1888.
- No. 41. Same to same. May 28, 1888.
- No. 42. Sir L. S. Sackville West to Mr. Bayard. May 28, 1888.
- No. 43. Mr. Bayard to Sir L. S. Sackville West. May 29, 1888.
- No. 44. Mr. Bayard to Mr. Garland. May 29, 1888.
- No. 45. Mr. Garland to Mr. Bayard. May 31, 1888.
- No. 46. Sir L. S. Sackville West to Mr. Bayard. August 6, 1888.
- No. 47. Mr. Bayard to Mr. Jenks. August 8, 1888.
- No. 48. Mr. Bayard to Sir L. S. Sackville West. August 8, 1888.
- No. 49. Mr. Jenks to Mr. Bayard. August 10, 1888.
- No. 50. Mr. Bayard to Sir L. S. Sackville West. August 13, 1888.

- No. 51. Sir L. S. Sackville West to Mr. Bayard. August 16, 1888.
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 No. 55. Mr. Bayard to Sir L. S. Sackville West. September 27, 1888.
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 No. 58. Mr. Rives to Mr. Garland. October 17, 1888.
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 No. 61. Mr. Garland to Mr. Bayard. November 14, 1888.
 No. 62. Mr. Bayard to Mr. Garland. November 17, 1888.
 No. 63. Mr. Herbert to Mr. Bayard. November 23, 1888.
 No. 64. Mr. Bayard to Mr. Garland. November 27, 1888.
 No. 65. Mr. Bayard to Mr. Herbert. November 28, 1888.
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 No. 67. Mr. Bayard to Mr. Herbert. December 10, 1888.
 No. 68. Mr. Stevens to Mr. Rives. No. 388. December 31, 1888.

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 No. 70. Mr. McLane to Mr. Bayard. No. 490. October 22, 1887.
 No. 71. Mr. Bayard to Mr. McLane. No. 271. November 18, 1887.
 No. 72. Mr. Bayard to Mr. McLane. No. 293. February 7, 1888.

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- No. 73. Mr. Coleman to Mr. Bayard. No. 498. September 1, 1887.

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- No. 74. Mr. Phelps to Mr. Bayard. No. 618. November 12, 1887.
 No. 75. Mr. Bayard to Mr. Phelps. No. 733. November 25, 1887.
 No. 76. Mr. Bayard to Mr. Phelps. No. 782. February 7, 1888.
 No. 77. Mr. Phelps to Mr. Bayard. No. 690. February 18, 1888.
 No. 78. Mr. Phelps to Mr. Bayard. No. 692. February 25, 1888.
 No. 79. Mr. Bayard to Mr. Phelps. No. 810. March 2, 1888.
 No. 80. Mr. White to Mr. Bayard. Telegram. April 7, 1888.
 No. 81. Mr. White to Mr. Bayard. No. 720. April 7, 1888.
 No. 82. Mr. Bayard to Mr. White. Telegram. April 9, 1888.
 No. 83. Mr. Bayard to Mr. White. No. 849. April 18, 1888.
 No. 84. Mr. White to Mr. Bayard. No. 725. April 20, 1888.
 No. 85. Mr. Bayard to Mr. White. No. 864. May 1, 1888.
 No. 86. Mr. White to Mr. Bayard. No. 767. June 6, 1888.
 No. 87. Mr. White to Mr. Bayard. No. 786. June 20, 1888.
 No. 88. Mr. Bayard to Mr. Phelps. No. 948. August 9, 1888.
 No. 89. Mr. Rives to Mr. Phelps. No. 982. October 23, 1888.
 No. 90. The whales in Hudson Bay. (Extract from newspaper.)

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- No. 91. Mr. Hubbard to Mr. Bayard. No. 387. September 23, 1887.
 No. 92. Mr. Hubbard to Mr. Bayard. Telegram. September 29, 1887.
 No. 93. Mr. Hubbard to Mr. Bayard. No. 388. September 29, 1887.
 No. 94. Mr. Bayard to Mr. Hubbard. No. 156. September 30, 1887.
 No. 95. Mr. Hubbard to Mr. Bayard. No. 393. October 10, 1887.
 No. 96. Mr. Bayard to Mr. Hubbard. No. 171. November 21, 1887.
 No. 97. Mr. Hubbard to Mr. Bayard. No. 483. June 23, 1888.
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- No. 102. Mr. Wurts to Mr. Bayard. No. 139. September 3, 1887.
 No. 103. Mr. Lothrop to Mr. Bayard. No. 151. December 8, 1887.
 No. 104. Mr. Lothrop to Mr. Bayard. No. 161. February 22, 1888.
 No. 105. Mr. Lothrop to Mr. Bayard. No. 164. March 12, 1888.

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- No. 106. Mr. Magee to Mr. Bayard. No. 118. March 20, 1888.

PART III.

Canadian correspondence relative to the seizure of British sealing vessels in Bering Sea.

- No. 107. Sir L. S. West to Lord Iddesleigh. September 21, 1886.
 No. 108. The administrator to Mr. Stanhope. September 27, 1886.
 No. 109. The administrator to Mr. Stanhope. September 27, 1886.
 No. 110. Same to same. September 27, 1886.
 No. 111. The administrator to Sir L. West. September 28, 1886.
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 No. 113. Sir L. West to the administrator. October 4, 1886.
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 No. 116. Lord Lansdowne to Mr. Stanhope. Telegram. November 27, 1886.
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 No. 121. Mr. Stanhope to the Marquis of Lansdowne. December 16, 1886.
 No. 122. Colonial office to Lord Lansdowne. January 14, 1887.
 No. 123. Lord Lansdowne to Mr. Stanhope. January 15, 1887.
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 No. 125. Same to same. January 19, 1887.
 No. 126. Sir L. West to Mr. Bayard. February 2, 1887.
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 No. 128. Sir L. West to Lord Lansdowne. Telegram. February 4, 1887.
 No. 129. Same to same. February 4, 1887.
 No. 130. Sir H. Holland to the Marquis of Lansdowne. February 5, 1887.
 No. 131. Lord Lansdowne to Sir H. Holland. Telegram. March 31, 1887.
 No. 132. Sir H. T. Holland to Lord Lansdowne. April 23, 1887.
 No. 133. Same to same. No. 115. May 12, 1887.
 No. 134. The Governor-General to Sir H. Holland. May 21, 1887.
 No. 135. Sir R. G. W. Herbert to the officer administering the government of Canada. May 27, 1887.
 No. 136. Sir L. West to Mr. Bayard. July 8, 1887.
 No. 137. Mr. Bayard to Sir L. West. July 11, 1887.
 No. 138. Sir H. Holland to Lord Lansdowne. No. 206. July 14, 1887.
 No. 139. Same to same. No. 279. August 15, 1887.
 No. 140. Lord Lansdowne to Sir H. Holland. No. 325. August 19, 1887.
 No. 141. Sir L. S. Sackville West to Lord Lansdowne. No. 66. August 23, 1887.
 No. 142. Lord Lansdowne to Sir H. T. Holland. No. 338. August 27, 1887.
 No. 143. Sir H. Holland to Lord Lansdowne. September 1, 1887.
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 No. 145. Sir Henry Holland to Lord Lansdowne. September 14, 1887.
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 No. 147. Lord Lansdowne to Sir Henry Holland. Telegram. September 23, 1887.
 No. 148. Lord Lansdowne to Sir H. T. Holland. No. 372. September 26, 1887.
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 No. 150. Sir L. West to Mr. Bayard. September 29, 1887.
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 No. 152. Same to same. September 29, 1887.
 No. 153. Same to same. October 8, 1887.
 No. 154. Sir L. S. West to Lord Lansdowne. No. 81. October 14, 1887.
 No. 155. Sir Henry Holland to Lord Lansdowne. No. 356. October 20, 1887.
 No. 156. Lord Lansdowne to Sir H. Holland. No. 408. October 20, 1887.
 No. 157. Same to same. No. 409. October 20, 1887.
 No. 158. Sir L. West to Mr. Bayard. October 26, 1887.
 No. 159. Sir H. Holland to Lord Lansdowne. November 4, 1887.

- No. 160. Same to same. November 16, 1887.
 No. 161. Same to same. No. 399. November 24, 1887.
 No. 162. Same to same. December 7, 1887.
 No. 163. Lord Lansdowne to Sir Henry Holland. January 19, 1888.

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Prior correspondence relative to the Bering Sea, Alaska, the sea of Okhotsk, and the Russian ukase of 1821.

- No. 164. Mr. Poletica to Mr. Adams. January 30, 1822.
 No. 165. Mr. Adams to Mr. Poletica. February 25, 1822.
 No. 166. Mr. Poletica to Mr. Adams. February 25, 1822.
 No. 167. Mr. Adams to Mr. Poletica. March 30, 1822.
 No. 168. Mr. Poletica to Mr. Adams. April 2, 1822.
 No. 169. Baron Tuyll to Mr. Adams. April 12 (24), 1823.
 No. 170. Mr. Adams to Baron Tuyll. May 7, 1823.
 No. 171. Mr. Adams to Mr. Middleton. No. 16. July 22, 1823.
 No. 172. Mr. Adams to Mr. Rush. No. 70. July 22, 1823.
 No. 173. Mr. Middleton to Mr. Adams. No. 35. April 19, 1824.
 No. 174. Convention between Great Britain and Russia. February 28, 1825.
 No. 175. Baron Krudener to Mr. Dickens. May 31, 1825.
 No. 176. Mr. Dickens to Baron Krudener. June 3, 1825.
 No. 177. Mr. Forsyth to Baron Krudener. June 24, 1833.
 No. 178. Baron Krudener to Mr. Forsyth. July 11, 1835.
 No. 179. Mr. Forsyth to Baron Krudener. July 21, 1835.
 No. 180. Baron Krudener to Mr. Forsyth. July 26, 1835.
 No. 181. Mr. Forsyth to Mr. Wilkins. No. 4. July 30, 1835.
 No. 182. Mr. Wilkins to Mr. Forsyth. No. 14. November 23, 1835.
 No. 183. Mr. Wilkins to Mr. Forsyth. No. 16. December 11, 1835.
 No. 184. Mr. Forsyth to Mr. Dallas. No. 3. May 4, 1837.
 No. 185. Mr. Dallas to Mr. Forsyth. No. 6. August 16, 1837.
 No. 186. Mr. Dallas to Mr. Forsyth. No. 7. September 8, 1837.
 No. 187. Mr. Forsyth to Mr. Dallas. No. 4. November 3, 1837.
 No. 188. Mr. Dallas to Mr. Forsyth. No. 15. March 19, 1838.
 No. 189. Same to same. No. 16. April 16, 1838.
 No. 190. Same to same. No. 17. May 13, 1838.
 No. 191. Treaty concerning the cession of Alaska by Russia to the United States, March 30, 1867.
 No. 192. Mr. Seward to Mr. Clay. No. 273. December 23, 1867.
 No. 193. Mr. Clay to Mr. Seward. No. 175. January 18, 1868.
 No. 194. Mr. Seward to Mr. Clay. No. 268. February 24, 1868.
 No. 195. Mr. Clay to Mr. Seward. No. 183. March 20, 1868.
 No. 196. Same to same. No. 199. August 14, 1868.
 No. 197. Mr. Seward to Mr. Clay. No. 295. August 31, 1868.
 No. 198. Treaty between the United States and Great Britain, May 6, 1871, article 26.
 No. 199. Mr. Hoffman to Mr. Evarts. No. 44. June 10, 1878.
 No. 200. Mr. Frelinghuysen to Mr. Hoffman. No. 120. March 7, 1882.
 No. 201. Mr. Hoffman to Mr. Frelinghuysen. No. 207. March 14, 1882.
 No. 202. Same to same. No. 211. March 27, 1882.
 No. 203. Same to same. No. 228. May 22, 1882.
 No. 204. Same to same. No. 231. June 14, 1882.
 No. 205. Mr. Bayard to Mr. Taft. No. 13. March 25, 1885.
 No. 206. Mr. Bayard to Mr. Wurts. No. 50. June 28, 1886.
 No. 207. Mr. Bayard to Mr. Lothrop. No. 65. December 4, 1886.
 No. 208. Mr. Lothrop to Mr. Bayard. No. 95. February 17, 1887.
 No. 209. Same to same. No. 96. February 17, 1887.
 No. 210. Same to same. No. 100. March 7, 1887.
 No. 211. Same to same. No. 126. June 22, 1887.

PART V.

Treasury regulations.

- No. 212. Mr. Fairchild to Mr. Bayard. February 5, 1889.

PART I.

CORRESPONDENCE RELATIVE TO THE SEIZURE OF BRITISH SEAL- ING VESSELS IN BERING SEA.

No. 1.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, September 27, 1886. (Received September 28.)

SIR: I have the honor to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces on the Pacific station respecting the alleged seizure of three British Columbian seal schooners by the United States revenue cruiser *Corwin*, and I am in consequence instructed to request to be furnished with any particulars which the United States Government may possess relative to this occurrence.

I have, etc.,

L. S. SACKVILLE WEST.

No. 2.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, October 21, 1886. (Received October 22.)

SIR: With reference to my note of the 27th ultimo, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure in the North Pacific waters of three British Columbian seal schooners by the United States revenue cruiser *Corwin*, and to which I am without reply, I have the honor to inform you that I am now instructed by the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, to protest in the name of Her Majesty's Government against such seizure, and to reserve all rights to compensation.

I have, etc.,

L. S. SACKVILLE WEST.

No. 3.

*Earl of Iddesleigh to Sir L. S. Sackville West.**

FOREIGN OFFICE, October 30, 1886.

SIR: Her Majesty's Government are still awaiting a report on the result of the application which you were directed by my dispatch No. 181, of the 9th ultimo, to make to the Government of the United States for information in regard to the reported seizure by the United States revenue-cutter *Corwin* of three Canadian schooners while engaged in the pursuit of seals in Bering's Sea.

In the mean while, further details in regard to these seizures have been sent to this country, and Her Majesty's Government now consider it incumbent on them to bring to the notice of the United States Government the facts of the case as they have reached them from British sources.

It appears that the three schooners, named respectively the *Carolina*, the *Onward*, and the *Thornton*, were fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver's Island, Queen Charlotte Islands, and Alaska.

According to the depositions inclosed herewith from some of the officers and men,† these vessels were engaged in the capture of seals in the open sea, out of sight of land, when they were taken possession of, on or about the 1st August last, by the United States revenue-cutter *Corwin*—the *Carolina* in latitude 55° 50' north, longitude 168° 53' west; the *Onward* in latitude 50° 52' north, longitude 167° 55' west; and the *Thornton* in about the same latitude and longitude.

They were all at a distance of more than 60 miles from the nearest land at the time of their seizure, and on being captured were towed by the *Corwin* to Oonalaska, where they are still detained. The crews of the *Carolina* and *Thornton*, with the exception of the captain and one man on each vessel detained at that port, were, it appears, sent by the steamer *St. Paul* to San Francisco, Cal., and then turned adrift, while the crew of the *Onward* were kept at Oonalaska.

At the time of their seizure the *Carolina* had 686 seal-skins on board, the *Thornton* 404, and the *Onward* 900, and these were detained, and would appear to be still kept at Oonalaska, along with the schooners, by the United States authorities.

According to information given in the *Alaskan*, a newspaper published at Sitka, in the Territory of Alaska, and dated the 4th September, 1886, it is reported:

(1) That the master and mate of the schooner *Thornton* were brought for trial before Judge Dawson, in the United States district court at Sitka, on the 30th August last.

(2) That the evidence given by the officers of the United States revenue-cutter *Corwin* went to show that the *Thornton* was seized while in Bering Sea, about 60 or 70 miles south south-east of St. George Island, for the offense of hunting and killing seals within that part of Bering Sea which (it was alleged by the *Alaskan* newspaper) was ceded to the United States by Russia in 1867.

(3) That the judge in his charge to the jury, after quoting the first article of the treaty of the 30th March, 1867, between Russia and the United States, in which the

* Left at the Department of State by Sir L. S. Sackville West November 12, 1886.

† (1) Copy of a letter from Daniel Munroe, master of the Canadian sealing schooner *Onward*. (2) Copy of a letter from James Ogilvie, master of the Canadian sealing schooner *Carolina*. (3) Deposition of John Dallas, seaman on board the *Thornton*; of Thomas McLardy, cook on board the *Carolina*; of Edward Shields, seaman on board the *Carolina*; and of William Munsie, owner of the *Carolina*. All of the province of British Columbia. [These inclosures were not transmitted to the Department.]

western boundary of Alaska is defined, went on to say: "All the waters within the boundary set forth in this treaty to the western end of the Aleutian archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must, therefore, attach against any violation of law within the limits heretofore described. If, therefore, the jury believe from the evidence that the defendants, by themselves or in conjunction with others, did, on or about the time charged in the information, kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal or animals on the shores of Alaska or in the Bering Sea east of 193° of west longitude, the jury should find the defendants guilty, and assess their punishment separately at a fine of not less than \$200 nor more than \$1,000, or imprisonment not more than six months, or by both such fine (within the limits herein set forth) and imprisonment."

(4) That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the *Thornton*, Hans Gutounsen, was sentenced to imprisonment for thirty days, and to pay a fine of \$500; and the mate of the *Thornton*, Norman, was sentenced to imprisonment for thirty days, and to pay a fine of \$300; which terms of imprisonment are presumably now being carried into effect.

There is also reason to believe that the masters and mates of the *Onward* and *Carolina* have since been tried and sentenced to undergo penalties similar to those now being inflicted on the master and mate of the *Thornton*.

You will observe, from the facts given above, that the authorities of the United States appear to lay claim to the sole sovereignty of that part of Bering Sea lying east of the westerly boundary of Alaska, as defined in the first article of the treaty concluded between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly [westerly?] from the main-land of Alaska.

In support of this claim, those authorities are alleged to have interfered with the peaceful and lawful occupation of Canadian citizens on the high seas, to have taken possession of their ships, to have subjected their property to forfeiture, and to have visited upon their persons the indignity of imprisonment.

Such proceedings, if correctly reported, would appear to have been in violation of the admitted principles of international law.

I request that you will, on the receipt of this dispatch, seek an interview with Mr. Bayard, and make him acquainted with the nature of the information which Her Majesty's Government have been furnished respecting this matter, and state to him that they do not doubt that, if on inquiry it should prove to be correct, the Government of the United States will, with their well-known sense of justice, at once admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected and for the losses which they have sustained.

Should Mr. Bayard desire it, you are authorized to leave with him a copy of this dispatch.

I am, etc.,

IDDLESLEIGH.

No. 4.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, November 12, 1886.

SIR: The delay in my reply to your letters of September 27 and October 21, asking for the information in my possession concerning the seizure by the United States revenue-cutter *Corwin*, in the Bering

Sea, of British vessels, for an alleged violation of the laws of the United States in relation to the Alaskan seal fisheries, has been caused by my waiting to receive from the Treasury Department the information you desired. I tender the fact in apology for the delay and as the reason for my silence, and, repeating what I said verbally to you in our conversation this morning, I am still awaiting full and authentic reports of the judicial trial and judgment in the cases of the seizures referred to.

My application to my colleague, the Attorney-General, to procure an authentic report of these proceedings was promptly made, and the delay in furnishing the report doubtless has arisen from the remoteness of the place of trial.

So soon as I am enabled I will convey to you the facts as ascertained in the trial and the rulings of law as applied by the court.

I take leave also to acknowledge your communication of the 21st of October, informing me that you had been instructed by the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, to protest against the seizure of the vessels above referred to, and to reserve all rights of compensation.

All of which shall receive respectful consideration.

I have, etc.,

T. F. BAYARD.

No. 5.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, December 7, 1886. (Received December 8.)

SIR: Referring to your note of the 12th instant [ultimo?] on the subject of the seizure of British vessels in the Bering Sea, and promising to convey to me as soon as possible the facts as ascertained in the trial and the rulings of law as applied by the court, I have the honor to state that vessels are now, as usual, equipping in British Columbia for fishing in that sea. The Canadian Government, therefore, in the absence of information, are desirous of ascertaining whether such vessels fishing in the open sea and beyond the territorial waters of Alaska would be exposed to seizure, and Her Majesty's Government at the same time would be glad if some assurance would be given that, pending the settlement of the question, no such seizures of British vessels will be made in Bering Sea.

I have, etc.,

L. S. SACKVILLE WEST.

No. 6.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, January 9, 1887. (Received January 10.)

SIR: I have the honor to inform you that I have received instructions from the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, again to bring to your notice the grave repre-

sentations made by Her Majesty's Government respecting the seizure of the British vessels *Carolena*, *Onward*, and *Thornton* in Bering Sea by the United States cruiser *Corwin*, to which no reply has as yet been received.

On the 27th of September last I had the honor to address to you a note, in which I stated that Her Majesty's Government requested to be furnished with any particulars which the United States Government might possess relative to this occurrence.

On the 21st of October last I had the honor to inform you that I was instructed by the Earl of Iddesleigh to protest in the name of Her Majesty's Government against such seizures, and to reserve all rights to compensation.

In a note dated the 12th of November last you were good enough to explain the delay which had occurred in answering these communications, and on the same day I had the honor to communicate to you a dispatch from the Earl of Iddesleigh, a copy of which, at your request, I placed in your hands.

On the 7th ultimo I again had the honor to address you, stating that vessels were equipping in British Columbia for fishing in Bering Sea, and that the Canadian Government were desirous of ascertaining whether such vessels fishing in the open sea and beyond the territorial waters of Alaska would be exposed to seizure, and that Her Majesty's Government would be glad if some assurance could be given that pending the settlement of the questions no such seizures of British vessels would be made in Bering Sea.

The vessels in question were seized at a distance of more than 60 miles from the nearest land at the time of their seizure. The master of the *Thornton* was sentenced to imprisonment for thirty days, and to pay a fine of \$500, and there is reason to believe that the masters of the *Onward* and *Carolena* have been sentenced to similar penalties.

In support of this claim to jurisdiction over a stretch of sea extending in its widest part some 600 or 700 miles from the mainland, advanced by the judge in his charge to the jury, the authorities are, alleged to have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas; to have subjected their property to forfeiture and to have visited upon their persons the indignity of imprisonment. Such proceedings therefore, if correctly reported, appear to have been in violation of the admitted principles of international law.

Under these circumstances Her Majesty's Government do not hesitate to express their concern at not having received any reply to their representations, nor do they wish to conceal the grave nature which the case has thus assumed, and to which I am now instructed to call your immediate and most serious attention. It is unnecessary for me to allude further to the information with which Her Majesty's Government have been furnished respecting these seizures of British vessels in the open seas, and which for some time past has been in the possession of the United States Government, because Her Majesty's Government do not doubt that if, on inquiry, it should prove to be correct, the Government of the United States will, with their well-known sense of justice, admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected and for the losses which they have sustained.

In conclusion, I have the honor again to refer to your note of the 12th of November last, and to what you said verbally to me on the same

day, and to express the hope that the cause of the delay complained of in answering the representations of Her Majesty's Government on this grave and important matter may be speedily removed.

I have, etc.,

L. S. SACKVILLE WEST

No. 7.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, January 12, 1887.

SIR: Your note of the 9th instant was received by me on the next day, and I regret exceedingly that, although my efforts have been diligently made to procure from Alaska the authenticated copies of the judicial proceedings in the cases of the British vessels *Carolena*, *Onward*, and *Thornton*, to which you refer, I should not have been able to obtain them in time to have made the urgent and renewed application of the Earl of Iddesleigh superfluous.

The pressing nature of your note constrains me to inform you that on September 27 last, when I received my first intimation from you that any question was possible as to the validity of the judicial proceedings referred to, I lost no time in requesting my colleague, the Attorney-General, in whose Department the case is, to procure for me such authentic information as would enable me to make full response to your application.

From week to week I have been awaiting the arrival of the papers, and to-day, at my request, the Attorney-General has telegraphed to Portland, Oregon, the nearest telegraph station to Sitka, in Alaska, in order to expedite the furnishing of the desired papers.

You will understand that my wish to meet the questions involved in the instructions you have received from your Government is averred, and that the delay has been enforced by the absence of requisite information as to the facts.

The distance of the vessels from any land or the circumstances attendant upon their seizure are unknown to me save by the statements in your last note, and it is essential that such facts should be devoid of all uncertainty.

Of whatever information may be in the possession of Her Majesty's Government I have, of course, no knowledge or means of knowledge, but this Department of the Government of the United States has not yet been placed in possession of that accurate information which would justify its decision in a question which you are certainly warranted in considering to be of grave importance.

I shall diligently endeavor to procure the best evidence possible of the matters inquired of, and will make due response thereupon when the opportunity of decision is afforded to me.

You require no assurance that no avoidance of our international obligations need be apprehended.

I have, etc.,

T. F. BAYARD.

No. 8.

Sir L. S. Sackville West to Mr. Bayard.

BRITISH LEGATION,
Washington, February 1, 1887. (Received February 2.)

SIR: With reference to your note of the 12th ultimo, I have the honor to inform you that under date of the 27th ultimo the Marquis of Salisbury instructs me to inquire whether the information and papers relative to the seizure of the British schooners *Carolena*, *Onward*, and *Thorn-ton* have reached the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

No. 9.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, February 3, 1887.

SIR: I beg to acknowledge your note of yesterday's date, received to-day.

Upon its receipt I made instant application to my colleague, the Attorney-General, in relation to the record of the judicial proceedings in the cases of the three British vessels arrested in August last in Bering Sea for violation of the United States laws regulating the Alaskan seal fisheries.

I am informed that the documents in question left Sitka on the 26th of January, and may be expected to arrive at Port Townsend, in Washington Territory, about the 7th instant, so that the papers, in the usual course of mail, should be received by me within a fortnight.

In this connection I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

I have, etc.,

T. F. BAYARD.

No. 10.

Sir L. S. Sackville West to Mr. Bayard

WASHINGTON, *February 4, 1887. (Received February 5.)*

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant, informing me that without conclusion at this time of any questions which may be found to be involved in the cases of seizure of British vessels in Bering Sea, orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

I have, etc.,

L. S. SACKVILLE WEST.

No. 11.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, April 4, 1887. (Received April 4.)

SIR: In view of the approaching fishing season in Bering Sea and the fitting out of vessels for fishing operations in those waters, Her Majesty's Government have requested me to inquire whether the owners of such vessels may rely on being unmolested by the cruisers of the United States when not near land.

Her Majesty's Government also desires to know whether the documents referred to in your note of the 3d of February last connected with the seizure of certain British vessels beyond the three-mile limit and legal proceedings connected therewith have been received. And I have the honor therefore to request you to be good enough to enable me to reply to these inquiries on the part of Her Majesty's Government with as little delay as possible.

I have, etc.,

L. S. SACKVILLE WEST.

No. 12.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, April 12, 1887.

SIR: I have the honor to acknowledge your note of the 4th instant relative to the fisheries in Bering Sea, and inquiring whether the documents referred to in my note of February 3, relating to the cases of seizure in those waters of vessels charged with violating the laws of the United States regulating the killing of fur seals, had been received.

The records of the judicial proceedings in the cases in the district court in Alaska referred to, were only received at this Department on Saturday last, and are now under examination.

The remoteness of the scene of the fur-seal fisheries and the special peculiarities of that industry have unavoidably delayed the Treasury officials in framing appropriate regulations and issuing orders to United States vessels to police the Alaskan waters for the protection of the fur-seals from indiscriminate slaughter and consequent speedy extermination.

The laws of the United States in this behalf are contained in the Revised Statutes relating to Alaska, in sections 1956-1971, and have been in force for upwards of seventeen years; and prior to the seizures of last summer but a single infraction is known to have occurred, and that was promptly punished.

The question of instructions to Government vessels in regard to preventing the indiscriminate killing of fur-seals is now being considered, and I will inform you at the earliest day possible what has been decided, so that British and other vessels visiting the waters in question can govern themselves accordingly.

I have, etc.,

T. F. BAYARD.

[Annex.]

TITLE XXIII.—THE TERRITORIES.

REVISED STATUTES RELATING TO ALASKA.

CHAPTER III.—*Provisions relating to the unorganized Territory of Alaska.*

Sec.	Sec.
1954. Customs, etc., laws extended to Alaska.	1965. Who may lease.
1955. Importation of fire-arms and distilled spirits may be prohibited.	1966. Covenants in lease.
1956. Killing of fur-bearing animals prohibited.	1967. Penalty.
1957. What courts to have jurisdiction of offenses.	1968. Penalty upon leases.
1958. Remission of fines, etc.	1969. Tax upon seal skins.
1959. St. Paul and St. George Islands declared special reservations.	1970. Lease may be terminated.
1960. Killing of seal upon them prohibited except in certain months.	1971. Lessees to furnish copies to masters of their vessels.
1961. Killing of certain seal prohibited.	1972. Certain sections may be altered.
1962. Limit to number of seals to be killed.	1973. Agents and assistants to manage seal fisheries.
1963. Right to take seal may be leased.	1974. Their pay, etc.
1964. Bond.	1975. Not to be interested in right to take seals.
	1976. Agents may administer certain oaths and take testimony.

SEC. 1954. The laws of the United States relating to customs, commerce, and navigation, are extended to and over all the main-land, islands, and waters of the Territory ceded to the United States by the Emperor of Russia by treaty concluded at Washington on the thirtieth day of March, A. D. one thousand eight hundred and sixty-seven, so far as the same may be applicable thereto.

SEC. 1955. The President shall have the power to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits, into and within the Territory of Alaska; the exportation of the same from any other port or place in the United States, when destined to any port or place in that Territory, and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined for such Territory, in violation of any regulations that may be prescribed under this section, and all such arms, ammunition, and distilled spirits, landed or attempted to be landed or used at any port or place in the Territory, in violation of such regulations, shall be forfeited; and if the value of the same exceeds four hundred dollars the vessel upon which the same is found, or from which they have been landed, together with her tackle, apparel and furniture, and cargo, shall be forfeited; and any person willfully violating such regulations shall be fined not more than five hundred dollars, or imprisoned not more than six months. Bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to any place in the Territory, or if not so destined, when there is reasonable ground of suspicion that such articles are intended to be landed therein in violation of law; and similar bonds may also be required on the landing of any such articles in the Territory from the person to whom the same may be consigned.

SEC. 1956. No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offense, be fined not less than two hundred dollars nor more than one thousand dollars, or imprisonment not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited. But the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section.

SEC. 1957. Until otherwise provided by law, all violations of this chapter and of the several laws hereby extended to the Territory of Alaska and the waters thereof committed within limits of the same, shall be prosecuted in any district court of the United States in California or Oregon, or in the district courts of Washington; and the collector and deputy collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the other laws extended over the Territory, and to keep and deliver the same to the marshal of some one of such courts; and such courts shall have original jurisdiction, and may take cognizance of all cases arising under this act and the several laws hereby extended over the Territory, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the district or territory where the proceedings are brought.

SEC. 1958. In all cases of fine, penalty or forfeiture embraced in the act approved the third March, one thousand seven hundred and ninety-seven, chapter thirteen, or mentioned in any act in addition to or amendatory of such act, that have occurred or may occur in the collection district of Alaska, the Secretary of the Treasury is authorized, if, in his opinion, the fine, penalty or forfeiture was incurred without willful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the act above referred to, and upon the facts so to be ascertained he may exercise all the power of remission conferred upon him by that act, as fully as he might have done had such facts been ascertained under and according to the provisions of that act.

SEC. 1959. The islands of Saint Paul and Saint George, in Alaska, are declared a special reservation for Government purposes; and until otherwise provided by law it shall be unlawful for any person to land or remain on either of those islands, except by the authority of the Secretary of the Treasury; and any person found on either of those islands, contrary to the provisions hereof, shall be summarily removed; and it shall be the duty of the Secretary of War to carry this section into effect.

SEC. 1960. It shall be unlawful to kill any fur-seal upon the islands of Saint Paul and Saint George, or in the waters adjacent thereto except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of fire-arms, or by other means tending to drive the seals away from those islands, but the natives of the islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing and for the manufacture of boats for their own use; and the killing in such cases shall be limited and controlled by such regulations as may be prescribed by the Secretary of the Treasury.

SEC. 1961. It shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the islands of Saint Paul and Saint George, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and every person who violates the provisions of this or the preceding section shall be punished for each offense by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment not more than six months, or by both such fine and imprisonment; and all vessels, their tackle, apparel, and furniture, whose crews are found engaged in the violation of either this or the preceding section, shall be forfeited to the United States.

SEC. 1962. For the period of twenty years from the first July, one thousand eight hundred and seventy, the number of fur seals which may be killed for their skins upon the island of Saint Paul is limited to seventy-five thousand per annum; and the number of fur-seals which may be killed for their skins upon the island of Saint George is limited to twenty-five thousand per annum; but the Secretary of the Treasury may limit the right of killing, if it becomes necessary for the preservation of such seals, with such proportionate reduction of the rents reserved to the Government as may be proper; and every person who knowingly violates either of the provisions of this section shall be punished as provided in the preceding section.

SEC. 1963. When the lease heretofore made by the Secretary of the Treasury to "The Alaska Commercial Company" of the right to engage in taking fur-seals on the islands of Saint Paul and Saint George, pursuant to the act of the first July, chapter one hundred and eighty-nine, or when any future similar lease expires, or is surrendered, forfeited, or terminated, the Secretary shall lease to proper and responsible parties, for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance, and education, as well as to the interests of the parties heretofore engaged in trade and the protection of the fisheries, the right of taking fur-seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seals, for the term of twenty years, at an annual rental of not less than fifty thousand dollars, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and every such lease shall be duly executed in duplicate, and shall not be transferable.

SEC. 1964. The Secretary of the Treasury shall take from the lessees of such islands in all cases a bond, with securities, in a sum not less than five hundred thousand dollars, conditioned for the faithful observance of all the laws and requirements of Congress, and the regulations of the Secretary of the Treasury touching the taking of fur-seals and the disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith.

SEC. 1965. No persons other than American citizens shall be permitted; by lease or otherwise, to occupy the islands of Saint Paul and Saint George, or either of them, for the purpose of taking the skins of fur-seals therefrom, nor shall any foreign vessels be engaged in taking such skins; and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit or advantage, directly or indirectly, of any persons other than American citizens.

SEC. 1966. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give or dispose of any distilled spirits or spirituous liquors on either of those islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and every revenue officer, officially acting as such on either of the islands, shall seize and destroy any distilled or spirituous liquors found thereon; but such officer shall make detailed reports of his doings in that matter to the collector of the port.

SEC. 1967. Every person who kills any fur seal on either of those islands, or in the waters adjacent thereto, without authority of the lessees thereof, and every person who molests, disturbs, or interferes with the lessees, or either of them, or their agents or employes, in the lawful prosecution of their business, under the provisions of this chapter, shall for each offense be punished as prescribed in section 1961; and all vessels, their tackle, apparel, appurtenances, and cargo, whose crews are found engaged in any violation of the provisions of sections 1965 to 1968, inclusive, shall be forfeited to the United States.

SEC. 1968. If any person or company, under any lease herein authorized, knowingly kills, or permits to be killed, any number of seals exceeding the number for each island in this chapter prescribed, such person or company shall, in addition to the penalties and forfeitures herein provided, forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then such person or company shall forfeit the value of the same.

SEC. 1969. In addition to the annual rental required to be reserved in every lease, as provided in section nineteen hundred and sixty-three, a revenue tax or duty of two dollars is laid upon each fur-seal skin taken and shipped from the islands of Saint Paul and Saint George during the continuance of any lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is empowered to make all needful regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also to carry into full effect all the provisions of this chapter except as otherwise prescribed.

SEC. 1970. The Secretary of the Treasury may terminate any lease given to any person, company, or corporation on full and satisfactory proof of the violation of any of the provisions of this chapter or the regulations established by him.

SEC. 1971. The lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government revenue officer for the time being who may be in charge at the islands as the authority of the party for landing and taking skins.

SEC. 1972. Congress may at any time hereafter alter, amend, or repeal sections from nineteen hundred and sixty to nineteen hundred and seventy-one, both inclusive, of this chapter.

SEC. 1973. The Secretary of the Treasury is authorized to appoint one agent and three assistant agents, who shall be charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Treasury.

SEC. 1974. The agent shall receive the sum of ten dollars each day, one assistant agent the sum of eight dollars each day, and two assistant agents the sum of six dollars each day while so employed; and they shall also be allowed their necessary traveling expenses in going to and returning from Alaska, for which expenses vouchers shall be presented to the proper accounting officers of the Treasury, and such expenses shall not exceed in the aggregate six hundred dollars each in any one year.

SEC. 1975. Such agents shall never be interested, directly or indirectly, in any lease of the right to take seals, nor in any proceeds or profits thereof, either as owner, agent, partner, or otherwise.

SEC. 1976. Such agents are empowered to administer oaths in all cases relating to the service of the United States, and to take testimony in Alaska for the use of the Government in any matter concerning the public revenues.

No. 13.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, July 8, 1887. (Received July 9.)

SIR: With reference to your note of the 12th April, stating that the records of the judicial proceedings in the cases of the British vessels seized in the Bering Sea had been received, I have the honor to inform

you that the Marquis of Salisbury has instructed me to request you to be good enough to furnish me with a copy of the same for the information of Her Majesty's Government.

I have, etc.,

L. S. SACKVILLE WEST.

No. 14.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, July 11, 1887.

SIR: Complying with the request contained in your note of the 8th instant, conveyed to me under the instructions of your Government, I have the honor to inclose you two printed copies of the judicial proceedings in the United States district court for the District of Alaska in the several cases of libel against the schooners *Onward*, *Carolena*, and *Thornton*, for killing fur seals in Alaskan waters.

Accept, etc.,

T. F. BAYARD.

[Enclosure.]

Transcript of record in the case of the schooner Carolena.

The United States, libellant, *vs.* The Schooner *Carolena*, her tackle, etc. On libel of information for being engaged in the business of killing fur seal in Alaska.

On the 28th day of August, 1886, was filed the following libel of information.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA,
AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,

Judge of said District Court:

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the District of Alaska, heretofore, to wit, on the first day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit in the waters of that portion of Bering's Sea belonging to said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Carolena*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to said attorney unknown, as forfeited to the use of the United States, for the following causes:

That the said vessel was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court, and that by reason thereof, and by force of the statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over

twenty tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the beforementioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture, may, for the causes aforesaid and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the United States, according to the form of the statutes of the said United States in such case made and provided.

M. D. BALL,

U. S. Dist. Attorney for the Dist. of Alaska.

Thereupon issued forthwith the following monition :

DISTRICT OF ALASKA, SCT.

The President of the United States to the Marshal of the District of Alaska, greeting :

Whereas a libel of information hath been filed in the district court of the United States for the District of Alaska on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the District aforesaid, on behalf of the United States of America, against the schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in the said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, etc., may be cited in general and special to answer the premises, and, all proceedings being had, that the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the district of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka in the district of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty six and of the Independence of the United States the one hundred and eleventh.

[SEAL.]

ANDREW T. LEWIS,
Clerk.

On the 6th day of September, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States of America vs. The Schooner Carolena.

UNITED STATES OF AMERICA, District of Alaska, ss :

C. A. Abbey, being duly sworn, deposes and says:

That he is, and at all times herein mentioned was, a captain in the United States Revenue Marine, and in command of the United States revenue cutter *Corwin*.

That affiant and the following-named officers and men of said *Corwin* are material and necessary witnesses for the United States in the above-entitled action, to wit: J. C. Cantwell, lieutenant; Thos. Singleton, seaman; J. U. Rhodes, lieutenant; T. Lorensen, seaman; and J. H. Douglass, pilot.

That owing to scarcity of provisions and fuel upon said *Corwin*, the said *Corwin* and deponent and said witnesses will be obliged to and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater

distance than one hundred miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That James Blake was the mate of said schooner at the time of its seizure, and is the only person or officer of said schooner now within the jurisdiction of this court, or upon whom service of notice can be made as affiant is informed and believes.

C. A. ABBEY.

Subscribed and sworn to before me this 6th day of September, 1886.

ANDREW T. LEWIS,
Clerk.

On the same day was entered the following order:

In the matter of the United States vs. Schooner Thornton, case No. 50; schooner Carolina, case No. 51; schooner Onward, case No. 49; schooner San Diego, case No. 52.

In the above-entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now, on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton, and T. Lorensen be taken before the clerk of the said district court on Tuesday, the 7th day of September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached at the office of said clerk at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk, from time to time until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, esq., attorney-at-law, on or before September 7th at 12 m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886. Now at this time W. Clark, esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return thereof:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

The United States vs. The schooner Carolina.

To James Blake greeting: You are notified that by order of Lafayette Dawson, judge of said district court, that the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglass will be taken before the clerk of said district court at his office at Sitka in said district on Tuesday, September 7th, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk from time to time until completed.

Dated September 7th, 1886.

ANDREW T. LEWIS,
Clerk.

UNITED STATES OF AMERICA, *District of Alaska, ss:*

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within-named James Blake, at Sitka, district of Alaska, by then and there personally delivering to said James Blake a copy of said notice. And then and there gave him the privilege of being present at the taking of said depositions.

Dated September 9th, 1886.

BARTON ATKINS,
U. S. Marshal.

On the 9th day of September, 1886, were filed the following depositions:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

The United States of America vs. The schooner Carolina. No. 51.

Deposition of witnesses sworn and examined before me on the 7th day of September A. D. 1886, at 7 o'clock p. m. of said day, and on September 8th and 9th, 1886, there, after, at the clerk's office of said court in Sitka, district of Alaska, United States of

America, by virtue and in pursuance of the order of said court, made and entered in the above-entitled action on September 6th, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said district court between the United States as plaintiff and the schooner *Carolena* as defendant, on behalf of and at the instance of the said plaintiff, the United States, and upon notice of the time and place of taking of said depositions, served upon James Blake, the mate of said schooner, he being the only officer of said schooner upon whom service could be made, and upon W. Clark, esq., his attorney, the owners of said schooner being unknown and without the jurisdiction of this court.

Captain C. A. Abbey, being duly sworn, deposes and says:

Q. State your name and occupation.—A. Captain C. A. Abbey, in the United States Revenue Marine Service, at present in command of the U. S. Revenue steamer *Corwin* on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests in Alaska generally.

Q. What were you doing and what occurred on the 1st of August last in the line of your duty?—A. Cruising in Berings Sea about 75 miles south-southeast from St. George's Island, and I found the British schooner *Carolena* of Victoria, B. C., drifting with sails down. Her boats were absent and she was evidently a sealer. I saw dead seal lying upon her forward deck; inquired of the schooner in which direction her boats were.

I then ordered her to be seized by Lieut. Cantwell for killing fur seal in the waters of Alaska, took her in tow, and proceeded to hunt up her boats, all four of which I found with freshly-killed fur seal in them, arms, ammunition, and hunters, some of whom I saw shooting at the seal in the water. These boats all went on board the *Carolena*. On this evidence I caused the vessel to be seized by Lieut. Cantwell. I took her in tow and proceeded with her to Ounalaska where I placed the vessel, tackle, cargo, furniture, and appurtenances in charge of Deputy U. S. Marshal Isaac Anderson, of Ounalaska; the cargo of fur seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company and under seal. The arms and ammunition of this vessel I took on board the *Corwin* and brought to Sitka and delivered into the custody of the U. S. marshal there.

The vessel, tackle, furniture, and cargo are now in the custody of the U. S. marshal of this district.

Q. Was this the vessel against which this libel of information is filed?—A. It is.

Q. Did all this occur within the waters of Alaska and the Territory of Alaska, and within the jurisdiction of this court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of ten (10) tons burden or over?—A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk.

Lieutenant John C. Cantwell, being duly sworn, deposes and says:

Q. State your name, occupation, and age?—A. John C. Cantwell, third lieutenant, U. S. Marine Service, at present on duty on the U. S. Revenue steamer *Corwin*, and over the age of twenty-one years.

Q. Were you so on the 1st day of August last?—A. I was.

Q. State what occurred on that day in the line of your duty.—A. A schooner was sighted from the *Corwin* and I was directed by Capt. Abbey to board her. I found her to be the schooner *Carolena*, of Victoria, B. C., James Ogilvie, captain, and James Blake, mate. I saw dead seal upon her deck, and the captain admitted that he was engaged in taking seal, and that four of the schooner's boats were at the time absent from the vessel engaged in killing seals. I signaled this fact to Capt. Abbey and he directed me to seize the vessel, which I did, and the *Corwin* took us in tow.

Q. Do you recognize these papers?—A. I do. This paper marked (Ex. I) is the certificate of registry of the schooner *Carolena*, of Victoria, B. C. (Said certificate is dated March 21st, 1870, and represents said schooner as of 3,190 tons burden, and owned by Francis Armstrong, at Victoria, B. C.) This paper marked (Ex. J) is the bill of health of said schooner. (Said bill of health is dated at Victoria, B. C., May 19th, 1886, and represents said schooner *Carolena* as then ready to depart for Behring Sea and Okhotsk Sea and other places beyond the sea, with James Ogilvie, master, and eleven persons, including said master.) This paper marked (Ex. K) is the coasting license of said schooner. (Said license is in the usual form, to James Ogilvie, master of the schooner *Carolena*, dated at Victoria, B. C., Feb. 16th, 1886, and in terms expires on the 30th day of June, 1886.) This paper marked (Ex. L) is the clearance of said schooner. (Said clearance is for said schooner as of 3,190 tons, navigated with eleven men, James

Ogilvie, master, bound for Pacific Ocean, Behring Sea, and Okhotsk Sea, on a fishing and hunting voyage, and is dated at Victoria, B. C., May 19th, 1886.) All of which papers were found on board the Carolena at the time of seizure and taken possession of by me.

Q. State how many men the *Carolena* had on board as crew when seized.—A. Thirteen or fourteen.

Q. State whether this is a reasonable number of men for ordinary purposes of commerce and navigation.—A. It is an unusually large number for that purpose on a vessel of that size.

JOHN C. CANTWELL,
3d Lieut. U. S. R. M.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes, Lieut. U. S. Revenue Marine, and at present on duty on the U. S. revenue steamer *Corwin*, and over the age of 21 years.

Q. State what arms and ammunition were seized on the schooner *Carolena* at the time of her seizure.—A. 4 rifles, 1 musket, 5 shotguns, 171 shotgun cartridges, 353 rifle cartridges, 14½ bags buck-shot, ½ bag of bullets, 40 bags of wads, 21 boxes wads, 13 boxes primers, 1½ boxes of caps, 91 lbs. powder.

Q. Were there any nautical instruments seized on the *Carolena* except what is included in the general inventory?—A. 1 octant, 1 quadrant.

Q. What has become of this property?—A. It has all been delivered to the U. S. Marshal at Sitka, and is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

J. H. Douglass being duly sworn deposes and says:

Q. State your name, age, and occupation.—A. J. H. Douglass; am over the age of 21 years; am a pilot in the revenue-marine service of the U. S., and have been so for 7 years last past. I am now, and on the first of August, 1886, was, pilot on the revenue steamer *Corwin*.

Q. State what experience you have had in the fur-sealing business and your knowledge of the habits of the fur-seal.—A. I have been cruising for more than 15 years off and on in Alaskan waters always as an officer or pilot and have visited the Pribyloff Islands, St. Paul and St. George, several hundred times and am perfectly familiar with the sealing business as conducted on those islands and understand the migrating habits of the fur-seal. From about the 1st of May to about the 1st of July of each year the fur-seal is migrating north through the Unimak and Akutan passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Islands for breeding purposes. After the breeding season of about a month they begin to migrate south, and until into November of each year are migrating south through Behring Sea. During this season from May till November the fur seal are plenty in the waters adjacent to the Pribyloff Islands, and are migrating to and from these islands and are at all times very plenty between Unimak pass and said islands in a track about 30 miles wide which seems to be their highway to and from said islands. The schooner *Carolena* and her boats when seized were directly in this tract. I was present at time of seizure.

J. H. DOUGLASS.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

Thomas Singleton, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. Thomas Singleton; am over the age of 21 years; and am a seaman. Was employed on the steamer *Corwin* on the 1st day of August, 1886, when the *Carolena* was seized. I was sent on board the *Carolena*

right after the seizure, and saw a number of dead fur seal on deck and some of them had fur on them. Saw also some fresh fur-seal skins in the boats.

THOMAS SINGLETON.

Subscribed and sworn to before me this 8th day of September, 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS, -
Clerk U. S. Dist. Court.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States vs. The schooner Carolena. No. 51.

Whereas on the 6th day of December, 1886, the said district court duly made and entered in the journal of said court an order in the above-entitled action, directing that the testimony and depositions of the witnesses, C. A. Abbey, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, and Thomas Singleton, be taken before me, the clerk of said court, at the time or times and place and upon such notices as are specified in said order:

Now, therefore, this is to certify that, in pursuance of said order, on September 7th, 1886, at 7 o'clock p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, district of Alaska, United States of America; that M. D. Ball, esq., dist. attorney of said court and district, and W. H. Payson, esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners; and James Blake then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last-named day. That the said parties by their said attorneys and proctors then and there appeared and were present on each of said last-named days and at all times during the taking of said depositions. That each of said witnesses was then and there first duly cautioned and sworn by me, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

In witness whereof I have hereunto set my hand and the seal of said district court this 9th day of September, 1886.

[SEAL.]

ANDREW T. LEWIS,
Clerk of the U. S. District Court in and for the District of Alaska,
United States of America.

On September 20th, 1886, was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA. AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
Judge of said district court:

The amended libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the revenue marine service of the United States, duly commissioned by the President of the United States, in command of the United States revenue-cutter *Corwin*, and now on special duty in the waters of the district of Alaska, heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:

1 schooner *Carolena*, of Victoria, B. C., 4 canoes, 1 yawl, carpenter's tools, clock, chronometer, nautical instruments, sails and running gear, 2 anchors, ropes, twine,

oars, paddles, rowlocks, &c.; lamps, tanks, provisions, 685 fur seal skins, 12 pup seal skins, 1 hair seal skin, 4 rifles, 5 shotguns, and ammunition for same, and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel, her captain, officers, and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Unalaska, in said Territory, and delivered into the keeping of Isaac Anderson, a deputy U. S. marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka, in said district, and turned over to the U. S. marshal of this district, and all of said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney as aforesaid, further informs and alleges:

That on the 1st day of August, 1886, James Blake and certain other persons whose names are to said U. S. attorney unknown, who were then and there engaged on board of the said schooner *Carolena* under the direction and by the authority of James Ogilvie, then and there master of said schooner, engaged in killing and did kill, in the Territory and district of Alaska, and in the waters thereof, to wit, 20 fur seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 685 fur-seal skins, 12 pup-seal skins, and 1 hair-seal skin, and other goods so seized on board of said schooner *Carolena* constituted the cargo of said schooner at the time of the killing of said fur seals and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her said tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed, and that after due proceedings are had, all of said property be adjudged, decreed, and condemned as forfeited to the use of the United States, and for such other relief as may be proper in the premises.

M. D. BALL,

U. S. Dist. Attorney for the District of Alaska.

Dated September 20th, 1886.

On the same day was filed the following claim by proctor for owners:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

In the matter of the libel of information against the schooner Carolena, her tackle, apparel, furniture, and cargo. Claim by proctor for owners.

And now W. Clark, the duly authorized proctor for Munzie & Co., owners of the property above named, intervening for the interest of the said Munzie & Co., of Victoria, B. C., owners of the said schooner *Carolena*, her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner *Carolena*, her tackle, apparel, cargo, and furniture, as set forth in the said libel of information, and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, esq., U. S. dist. attorney for the district of Alaska.

And the said W. Clark, proctor as aforesaid, avers that the said Munzie & Co. were in possession of the said schooner *Carolena* at time of the attachment thereof, and that the said Munzie & Co. above named are the true and *bona-fide* owners of the said schooner *Carolena*, her tackle, apparel, cargo, and furniture, as seized by the marshal as aforesaid, and that no other person is the owner thereof.

Wherefore he prays to defend accordingly.

W. CLARK.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

On the same day was filed the following demurrer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Munzie & Co. and schooner "Carolena." Demurrer.

The demurrer of Munzie & Co., claimants of the property proceeded against in the above cause, to the amended information filed herein.

1st. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters in manner and form, as the same are in said information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2d. The said claimants by protestation deny that this court has jurisdiction to determine or try the question hereby put in issue.

3d. And that said claimants are not bound in law to answer the same.

Wherefore the said claimants pray that the said information may be dismissed with costs.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

Which was overruled by the court.

On the same day was filed the following answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Munzie & Co. and schooner "Carolena."—Answer.

The answer of Munzie & Co., owners and claimants of the said schooner *Carolena*, her tackle, apparel, furniture and cargo, as the same are set forth in the information filed herein in behalf of the United States.

And now come Munzie & Co., claimants as aforesaid, and for answer to said information against the said schooner *Carolena*, her tackle, apparel, and cargo as set forth in said information say that the said tackle, apparel, and cargo as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore the said claimants pray that said information be dismissed with costs to these claimants attached.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

On the 22d day of September, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

United States vs. The Schooner Carolena. No. 51.

The said libellant hereby excepts to the sufficiency of the defendants' answer herein, on the following grounds:

1st. Said answer is not properly or at all verified, as required by Rule 27 of the U. S. Admiralty Rules.

2nd. Said answer is not full, explicit, or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

M. D. BALL & W. H. PAYSON,
Proctors for libellant.

SEPTEMBER 21st, 1886.

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

United States vs. Munzie & Co. and Schooner Carolena. Amended answer.

To the honorable LAFAYETTE DAWSON,

Judge of the U. S. District Court for the District of Alaska:

James Blake, the duly authorized mate of the schooner *Carolena*, for Munzie & Co., intervening in the interest of and on behalf of said Munzie & Co., owners and claim-

ants of said schooner *Carolena*, her tackle, apparel, furniture, and cargo for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1st. That he denies each and every material allegation in said libel of information contained.

2nd. Denies that the said schooner *Carolena*, her tackle, apparel, furniture, and cargo, and the property appertaining thereto, as set forth in said libel of information, or any part thereof became forfeited to the United States.

3rd. Denies that said schooner, her captain, officers, and crew or any one of them were found engaged in killing fur seal within the limits of Alaska Territory and within the waters thereof in violation of section 1956 of the Revised Statutes of the United States, as set forth in said libel of information or at all.

4th. Denies that they killed any number of fur seal or other fur-bearing animals within the waters of Alaska or within said Territory of Alaska or in part thereof.

5th. That all and singular the premises herein set forth are true.

Wherefore he prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to these claimants to be taxed.

W. CLARK AND D. A. DINGLEY,
Proctors for Claimants.

UNITED STATES, *District of Alaska, ss.*

James Blake, being first duly sworn upon his oath, says:

I am the mate of said schooner intervening for the within-named claimants. That I have read the foregoing answer and know the contents thereof and that the same is true as I verily believe.

JAMES BLAKE.

Subscribed and sworn to before me this 22d day of September, A. D. 1886.

ANDREW T. LEWIS,
Clerk of the U. S. Dist. Court for the District of Alaska.

On the 4th day of October, 1886, the following return was made to the monition heretofore cited, page 5:

SITKA, *District of Alaska, ss.*

Be it remembered that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession subject to the order of this honorable court.

And I have given due notice to all persons claiming said property to be and appear before this district court on the 4th day of October, 1886, at 10 o'clock a. m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claim and allegations in that behalf.

And I have, as ordered by the said court, caused said notice to be published, and the same has been published in the *Alaskan*, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until said 4th day of October, 1886.

BARTON ATKINS,
Marshal Dist. of Alaska.

SITKA, ALASKA, *October 4th, 1886.*

On the same day was fixed the following decree:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

United States vs. The Schooner "Carolena." No. 51.

The marshal having returned on the monition issued to him in the above-entitled action that in obedience thereto he has attached the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock a. m., at the District of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and W. Clark, esq., proctor for Munzie & Co., of Victoria, B. C., having heretofore filed a claim to all of said property, on behalf of said Munzie & Co., the owners of said property, and no other persons having appeared and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamations having been

made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, esq., and W. H. Payson, esq., appearing as advocates for said libellant, and W. Clark, esq., as advocate for said claimants; and said cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1st. That all persons whatsoever other than said claimants be and they are hereby declared in contumacy and default.

2d. That said schooner *Carolena*, her tackle, apparel, boats, and furniture, and her cargo of 685 fur-seal skins, 12 pup-seal skins, and 1 hair-seal skin, and all other property found upon or appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court, the usual writ of *venditioni exponas* be issued to the marshal commanding him to sell all the said property and bring the proceeds into this court to be distributed according to law. Costs, to be taxed, are awarded against said claimants.

LAFAYETTE DAWSON,
District Judge.

Dated October 4th, 1886.

Done in open court this 4th day of October, 1886, at Sitka, District of Alaska, United States of America.

ANDREW T. LEWIS,
Clerk.

On the same day was filed the following motion to set aside decree:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Munzie & Co. and schooner "Carolena." Motion to set aside decree.

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and move the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

Which motion was overruled by the court, and on the same day was filed the following notice of appeal:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Munzie & Co. and schooner "Carolena." Notice of Appeal.

And now come W. Clark & D. A. Dingley, proctors for and in behalf of the claimants herein and notify this honorable court that they hereby appeal from the decree rendered herein to the circuit court having appellate jurisdiction over this district and that said appeal is taken upon questions of law and fact, and pray the court for an order on its clerk to prepare a completed transcript of the record herein, as the law requires.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

On the 9th day of February, 1887, was entered the following order:

In the matter of the United States vs. schooner Onward, No. 49; schooner Thornton, No. 50; schooner Carolena, No. 51; schooner San Diego, No. 52; arms and ammunition schr. Sierra, No. 57, arms and ammunition schr. City of San Diego, No. 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes, and furniture of whatsoever description, and of the arms and ammunition attached in said causes, and as to said attached vessels that the sale of the same (except the schooner *San Diego*, which shall be sold at Sitka),

shall be made at Port Townsend, in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the District of California, and that sale of said schooner *San Diego*, and all the other attached property be made at Sitka, in the district of Alaska. Thirty days' notice of such sales to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE U. S. DIST. COURT, DISTRICT OF ALASKA,
Sitka, March 10, 1887.

I, Andrew T. Lewis, clerk of the United States district court for the district of Alaska, do certify that the foregoing transcript of the record in the case of the United States *vs.* The schooner *Carolena*, her tackle, apparel, &c., on libel of information, pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of said original record, except the full text of the exhibits referred to in the testimony therein, of which the purport only is stated, and that said purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court the day and year above written.
[SEAL.] ANDREW T. LEWIS,

Clerk.

[Inclosure 2.]

Transcript of record in the case of the schooner Onward.

The United States, libellant, *vs.* The Schooner *Onward*, her tackle, &c. On libel of information for being engaged in the business of killing fur-seal in Alaska waters.

On the 28th day of August, 1886, was filed the following libel of information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
Judge of the said district court:

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of the said United States, against the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the District of Alaska, heretofore, to wit, on the second day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring's Sea belonging to said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Onward*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney, as forfeited to the United States for the following causes:

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statute of the United States in such case made and provided, the afore mentioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the before-mentioned schooner or vessel may be cited in general and special to answer the premises, and that all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture, may for the cause aforesaid, and others appearing, be con-

demned by the definite sentence and decree of this honorable court as forfeited to the use of said United States, according to the form of the statute of the said United States in such case made and provided.

M. D. BALL,
U. S. District Attorney for the District of Alaska.

Whereupon forthwith issued the following monition:

DISTRICT OF ALASKA, SCT:

The President of the United States of America to the marshal of the district of Alaska, greeting:

Whereas a libel of information hath been filed in the district court of the United States for the district of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in the said libel of information mentioned, and praying that the usual process and monition of the said court in that behalf be made, and that all persons interested in the said schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, etc., may be cited in general and special to answer the premises and all proceedings being had, that the said schooner *Onward*, her tackle, apparel, boats, cargo, and furniture may for the causes in the said libel of information mentioned be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the district of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Lafayette Dawson, judge of said court, and the seal thereof, affixed at the city of Sitka, in the District of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

[SEAL.]

ANDREW T. LEWIS,
Clerk.

On the 6th day of September, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States of America vs. The Schooner Onward.

UNITED STATES OF AMERICA, District of Alaska, ss:

C. A. Abbey, being duly sworn, deposes and says:

That he is, and at all times herein mentioned was, a captain in the United States Revenue Marine, and in command of the United States revenue-cutter *Corwin*.

That affiant and the following-named officers and men of said *Corwin* are material and necessary witnesses for the United States in the above-entitled action, to wit: J. W. Howison, lieutenant; C. F. Winslow, boatswain; Albert Leaf, seaman; J. C. Cantwell, lieutenant; J. H. Douglass, pilot, and J. U. Rhodes, lieutenant.

That owing to scarcity of provisions and fuel upon said cutter *Corwin*, the said *Corwin* and deponent and said witnesses will be obliged to, and are about to, go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Daniel Monroe was master and in possession of the said schooner *Onward* at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me this 6th day of September, 1886.

ANDREW T. LEWIS,
Clerk.

On the same day was entered the following order :

In the matter of the United States vs. Schooner Thornton, Case No. 50 ; Schooner Carolina, Case No. 51 ; Schooner Onward, Case No. 49 ; Schooner San Diego, Case No. 52.

In the above entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now on motion of M. D. Ball, United States district attorney for Alaska and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton, and T. Lorensen be taken before the clerk of the said district court on Tuesday the 7th day of September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, at the office of said clerk at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk from time to time until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, esq., attorney at law, on or before September 7th at 12 m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886. Now at this time W. Clark, esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return of service :

IN THE UNITED STATES DISTRICT COURT, IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States of America vs. The Schooner Onward.

To Daniel Monroe, greeting : You are notified that by order of Lafayette Dawson, judge of said district court, the depositions of C. A. Abbey, J. W. Howison, C. F. Winslow, Albert Leaf, J. C. Cantwell, J. H. Douglas, and J. U. Rhodes will be taken before the clerk of said district court at his office in Sitka, in said district, on Tuesday, September 7th, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached ; and if not completed on said evening the taking of said depositions will be continued by said clerk from time to time until completed.

ANDREW T. LEWIS,
Clerk.

Dated, September 7th, 1886.

UNITED STATES OF AMERICA, *District of Alaska, ss :*

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within-named Daniel Monroe, at Sitka, District of Alaska, by then and there personally delivering to said Daniel Monroe a copy of said notice. And then and there gave him the privilege of being present at the taking of said depositions.

BARTON ATKINS,
U. S. Marshal.

Dated September 9th, 1886.

On the 10th day of September, 1886, were filed the following depositions :

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

United States vs. The Schooner Onward. No. 49.

Depositions of witnesses sworn and examined before me on the 7th day of September, A. D. 1886, at 7 o'clock p. m. of said day and on September 8th and 9th, 1886, thereafter, at the clerk's office of said court in Sitka, District of Alaska, United States of America, by virtue of the order of said court, made and entered in the above-entitled action on September 6th, A. D. 1886, directing that the testimony and depositions of said witnesses be taken before me at said first-mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said district court between

the United States as plaintiff and the schooner *Onward* as defendant, on behalf of and at the instance of the said plaintiff, The United States and upon notice of the time and place of taking said depositions, served upon Daniel Monroe, the captain of said schooner, and in possession thereof at time of seizure, and upon W. Clark, esq., his attorney, the owners thereof being unknown and without the jurisdiction of this court.

Captain C. A. Abbey, being duly sworn, deposes and says:

I am a captain in the United States revenue-marine service, at present in command of the U. S. revenue steamer *Corwin*, on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests generally.

Q. What were you doing and what occurred on 2nd of August last in the line of your duty?—A. Cruising in Behring Sea, about 115 miles southeast from St. George Island and in about latitude and longitude between four and five o'clock in the morning, when First Lieut. J. W. Howison reported to me that there was a schooner alongside of us, which, in answer to his hail, replied that she was taking fur seals here in Behring Sea. I then directed him to seize her and place her in charge of C. T. Winslow, boatswain of the *Corwin*, I having no commissioned officer to spare at that time. I then got a hawser to her and proceeded to Oonalashka Harbor, where I placed the vessel, cargo, tackle, furniture, and appurtenances in charge of Deputy U. S. Marshal Isaac Anderson, of Oonalashka, the cargo of fur-seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company, and under seal.

The arms and ammunition I took aboard the *Corwin* and brought to Sitka, and delivered them to the U. S. marshal there. The said vessel, tackle, furniture, and cargo are now in the custody of the United States marshal of this district.

Q. Was this the vessel against which the libel of information is filed?—A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of (10) ten tons burden or over?—A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

J. W. Howison being duly sworn deposes and says:

Q. State your name, age and occupation.—A. J. W. Howison, am over 21 years of age, 1st lieutenant in the U. S. revenue service and executive officer on the U. S. revenue steamer *Corwin* and was such on the 2d of August of this year.

Q. State what happened on August 2nd, 1886, in the line of your duty.—A. Between 4 and 6 a. m. I spoke the schooner *Onward* of Victoria, B. C., and asked if they were catching seal in Behring Sea and they answered yes. I reported the same to the commanding officer of the *Corwin*, who ordered the vessel seized. I lowered the boat with the boatswain, C. T. Winslow, and two men and a line, pulled to the schooner and put the boatswain and two men on board, told the captain of the schooner, Daniel Monroe, that I seized him for catching fur seal in Behring Sea. I ran a line from the *Onward* to the schooner *Carolena* already in tow and returned to the *Corwin*.

Q. State the place of this seizure as near as you can recollect.—A. The position is given as Lat. 55° north, and Long. 167° 40' west; that is, about 110 or 115 miles to the south and east of St. George.

J. W. HOWISON.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

Lieut. John C. Cantwell being duly sworn deposes and says:

Q. State your name, occupation and age.—A. John C. Cantwell, 3rd lieutenant, U. S. Revenue Marine Service, at present on duty U. S. Revenue Steamer *Corwin* and over the age of twenty-one years—and was so during two years last past.

Q. Do you recognize this paper?—A. I do. It is the official inventory made by me on or about the 12th of August, 1886, of the furniture, tackle, appurtenances, and cargo of the schooner *Onward*. This inventory was made in consequence of the seizure of the vessel and gives a true and complete list of the furniture, tackle, appurtenances, and cargo of said vessel with the exception of the arms and ammunition. (Said inventory contains the usual ship's furniture of a vessel of the class of the

Onward, navigating instruments, lights, tools, sails, ship's stores, and 400 seal skins. The receipt of I. Anderson, deputy U. S. marshal at Qonalaska, August 14th, 1886, for said furniture, stores, and cargo, is attached thereto.)

"By witness" the item "400 seal skins" in said inventory means fur seal skins.

JOHN C. CANTWELL,
3d Lieut. U. S. R. M.

Subscribed and sworn to before me this 9th day of September, 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes. I am over the age of 21 years and a lieutenant in the U. S. revenue marine and attached to the revenue steamer *Corwin*.

Q. Do you recognize this paper?—A. I do. This paper marked (Ex. M) is the clearance paper of the schooner *Onward*, Victoria, B. C. I found this paper on the said schooner at the time of her seizure and then and there took possession of it. (Said clearance describes the *Onward* as a British schooner of 35.20 tons, navigated with four men, wood built, and bound for Pacific Ocean and Behring Sea, having on board ballast for fishing and hunting voyage. It is dated at Victoria, B. C., April 12th, 1886.)

Q. What arms and ammunition if any did you find aboard the schooner *Onward* at the time of her seizure?—A. 12 guns, 1 keg powder partly filled, 1 can powder, $\frac{1}{2}$ bag of buck-shot, 2 small bags caps.

Q. What was done with these arms and ammunition?—A. They were brought to Sitka on the *Corwin* and turned over to the U. S. marshal at Sitka, and are now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

JOHN U. RHODES, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes; lieut. U. S. Revenue Marine; at present on the U. S. revenue steamer *Corwin*; and over the age of 21 years.

Q. Was any other property seized upon the schooner *Onward* except what is included in the general inventory?—A. There was a box containing clothing and nautical instruments; the box was marked Daniel Monroe, master of the schooner *Onward*.

Q. What was done with this property?—A. I turned it over to the United States marshal at Sitka and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

Charles T. Winslow, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. My name is Charles T. Winslow; 48 years of age. I am a boatswain on the revenue-cutter *Corwin*, and was so on August 2nd, 1886.

Q. State what occurred on the last mentioned day.—A. At about 5 or 6 a. m. I was ordered by Lieut. Howison to go on board the schooner *Onward*, which he had seized, and I did so.

Q. What did you see on board, if anything?—A. About amidships on deck I saw 20 or 30 dead fur seal that had not been skinned, and some of them were bleeding. There were nine canoes on board with bloody water in them and with spears and outfit suitable for seal killing. Capt. Monroe, of the *Onward*, then told me he had caught 25 fur seal the day before the seizure and 125 the day before that. This was in answer to my statement that the *Carolena* had 75 seal in her boats.

CHARLES T. WINSLOW.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

Albert Leaf, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. Albert Leaf; over 21 years of age, and a seaman employed on the revenue-cutter *Corwin*, and was so on the 2nd day of August last.

Q. What happened on the last named day in connection with the schooner *Onward*?—A. I was placed on board the schooner *Onward* by Lieut. Howison when the vessel was seized. I saw dead fur seal with fresh blood on them on the forward deck and fresh fur-seal skins on the deck and there were salted fur seal skins in the hold. I saw nine canoes with blood in them and spears equipped for seal killing. All this was upon the schooner *Onward* at the time of her seizure.

ALBERT LEAF.

Subscribed and sworn to before me this 8 day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States vs. The Schooner "Onward." No. 49.

Whereas, on the 6th day of September, 1886, the said district court duly made and entered in the journal of said court an order directing that the testimony and depositions of the witnesses, C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, C. T. Winslow, and Albert Leaf, be taken before me, the clerk of said court, at the time or times and place and upon such notice as are specified in said order:

Now, therefore, this is to certify that in pursuance of said order, on September 7th, 1886, at 7 o'clock p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court, at Sitka, district of Alaska, United States of America; that M. D. Ball, esq., district attorney of said court and district, and W. H. Payson, esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, esq., then and there appeared on behalf of and as attorney and proctors for the said schooner and her owners herein, and Daniel Munroe then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last-named day. That the said parties by their said attorneys and proctors then and there appeared, and were present on each of said last-named days and at all times during the takings of said depositions. That each of said witnesses was then and there duly cautioned and sworn by me, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

Witness my hand and the seal of said district court this 9th day of September, A. D. 1886.

[SEAL.]

ANDREW T. LEWIS,
Clerk of the United States District Court in and for the district of Alaska,
United States of America.

On September 20th was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA. AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,

Judge of said district court:

The amended libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of the said United States, and being

present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the Revenue Marine Service of the United States, duly commissioned by the President of the United States, in command of the United States revenue-cutter *Corwin*, and on special duty in the waters of the district of Alaska heretofore, to wit, on the 2nd day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:

1 schooner, *Onward*, of Victoria, B. C., 9 canoes, carpenter's tools, caulking implements, 3 anchors, chronometer, clock, nautical instruments, sails, running rigging, rope, twine, lamps, oil, 3 tons of salt, casks and buckets, 400 fur seal skins, provisions, 12 guns and ammunition for same, and all other property found upon or appurtenant to said schooner. That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel and her captain, officers, and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalaska in said Territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of said arms and ammunition, which latter were brought into the port of Sitka, in said district, and turned over to the United States marshal of this district, and all said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney aforesaid, further informs and alleges:

That on the 2nd day of August, 1886, James Marketich and certain other persons whose names are unknown to said United States attorney, who were then and there engaged on board of the said schooner *Onward* as seamen and seal hunters, did under the direction and by the authority of Daniel Monroe, then and there master of said schooner, engage in killing and did kill, in the Territory and district of Alaska, and in the waters thereof, to wit, 20 fur seal, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 400 fur seal skins, and other goods so seized on board of said schooner *Onward* constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed; and that, after due proceedings are had, all of said property be adjudged decreed and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

M. D. BALL,

United States District Attorney for the District of Alaska.

Dated September 20th, 1886.

On the same day was filed the following claim:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA, IN ADMIRALTY.

In the matter of the libel of information against the schooner Onward, her tackle, apparel, furniture, and cargo. Claim of master for owner.

And now Daniel Monroe, master of the schooner *Onward*, intervening for the interests of Charles Spring & Co., of Victoria, B. C., the owners of the schooner *Onward*, her tackle, apparel, furniture and cargo, as set forth in the libel of information

herein, appears before this honorable court and makes claim to the said schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in the said libel of information and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, esq., United States district attorney for the district of Alaska.

And the said Daniel Monroe avers that the said Charles Spring & Co. were in possession of the said schooner *Onward* at the time of the attachment thereof, and that the said Charles Spring & Co. above named are the true bona fide owners of the said schooner, her tackle, apparel, furniture, and cargo, as seized by the marshal aforesaid, and that no other person is the owner thereof.

Wherefore he prays to defend accordingly.

DANIEL MONROE.

Subscribed and sworn to before me this 18th day of September, A. D. 1886.

[SEAL.]

ANDREW T. LEWIS,
Clerk of the U. S. Dist. Court for the District of Alaska.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

On the same day was filed also the following demurrer :

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

United States vs. Charles Spring and Schooner "Onward." Demurrer.

The demurrer of Charles Spring & Co., claimants of the property proceeded against in the above cause, to the amended information filed herein.

1st. The said claimants by protestation, not confessing all or any of the matters in said amended information to be true, demurs thereto and says that the said matters in manner and form, as the same are in said information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2d. The said claimants by protestation deny that this court has jurisdiction to determine or try the question hereby put in issue.

3d. And that said claimants are not bound by law to answer the same.

Wherefore the said claimants, Charles Spring & Co., pray that the said information may be dismissed with costs.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

Which demurrer was overruled by the court.

On the same day was filed the following answer of claimants :

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Charles Spring & Co. and Schooner "Onward." Answer.

The answer of Charles Spring & Co., claimants and owners of said schooner *Onward*, her tackle, apparel, furniture, and cargo, as the same are set forth in the information filed herein in behalf of the United States.

And now comes Charles Spring & Co., claimants as aforesaid, and for answer to the said information against the said schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in said information, say that the said schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in the information mentioned, did not, nor did any part thereof, become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore the said claimants pray that said information be dismissed with costs to these claimants attached.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

UNITED STATES, District of Alaska, ss :

Personally appeared before me W. Clark, who, being first duly sworn upon his oath, says:

I am the duly authorized proctor for the claimants above-named, that the foregoing answer is true as I verily believe. That the reason this affidavit is made by me and

not by claimants is because said claimants are non-residents and are absent from the District of Alaska.

(This was treated as subscribed and sworn to by Daniel Munroe, master.)

Subscribed and sworn to before me this day of September, A. D. 1886.

On September 22d, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

United States vs. The Schooner Onward. No. 49.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:

1st. Said answer is not properly or at all verified as required by rule 27 of the United States admiralty rules.

2nd. Said answer is not full, explicit, or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations or facts in said libel, but merely denies a conclusion of law.

M. D. BALL AND W. H. PAYSON,
Proctors for Libellant.

SEPT. 21, 1886.

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

United States vs. Charles Spring & Co. and schooner Onward. No. 49. Amended answer.

To the honorable LAFAYETTE DAWSON,

Judge of the United States district court for the district of Alaska:

Daniel Monroe, master of the schooner *Onward*, intervening for the interests and in behalf of Charles Spring & Co., owners and claimants of said schooner *Onward*, her tackle, apparel, furniture, and cargo, for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1st. That he denies each and every material allegation in said libel of information contained.

2nd. Denies that the said schooner *Onward*, her tackle, apparel, furniture, and cargo, and the property appertaining thereto as set forth and described in said libel of information or any part thereof became forfeited to the United States.

3rd. Denies that said schooner, her captain, officers, and crew or any one of them were found engaged in killing fur seal within the limits of Alaska waters and within the Territory of Alaska in violation of section 1956 of the Revised Statutes of the United States as set forth in said libel of information or at all.

4th. Denies that they killed any number great or less, or any number at all of fur seal or other fur-bearing animals within the waters of Alaska, or within the said Territory of Alaska or in any part thereof.

5th. That all and singular the premises herein set forth are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to these claimants attached.

W. CLARK AND D. A. DINGLEY,
Proctors for Claimants.

UNITED STATES, District of Alaska, ss:

Daniel Monroe, being first duly sworn, upon his oath says:

I am the master and captain of the schooner *Onward*. That I have heard read the foregoing answer and know the contents thereof and that the same is true of my own personal knowledge.

DANIEL MONROE.

Subscribed and sworn to before me this 22nd day of September, A. D. 1886.

ANDREW T. LEWIS,
Clerk of the U. S. Dist. Court for the District of Alaska.

On the 4th day of October, 1886, was filed the following return to the monition issued on the 28th day of August, 1886, cited on page 3 of this transcript:

SITKA, *District of Alaska, ss :*

Be it remembered that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession subject to the order of this honorable court.

And I have given due notice to all persons claiming said property to be and appear before this district court on the 4th day of October, 1886, at 10 o'clock a. m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf.

And that I have, as ordered by said court, caused said notice to be published, and the same has been published in the Alaskan, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until said 4th day of October, 1886.

BARTON ATKINS,
Marshal, District of Alaska.

SITKA, ALASKA, *October 4th, 1886.*

On the same day the following decree was entered :

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

United States vs. The Schooner Onward. No. 49.

The marshal having returned on the monition issued to him in the above-entitled action that in obedience thereto he has attached the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock a. m., at the District of Alaska, United States of America, then and there to appear and make their allegations in that behalf; and Daniel Monroe, the captain of said vessel, having heretofore filed a claim to all said property on behalf of Charles Spring & Co., of Victoria, B. C., the owner thereof, and no other persons having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, esq., and W. H. Payson, esq., appearing as advocates for the said libellant, and W. Clark as advocate for said claimants; and the cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1st. That all persons whatsoever other than said claimants be and they are hereby declared in contumacy and default.

2nd. That said schooner *Onward*, her tackle, apparel, boats, and furniture and her cargo of 400 fur-seal skins, and all other property found upon or appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court the usual writ of venditioni exponas be issued to the marshal commanding him to sell all of said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimants.

LAFAYETTE DAWSON,
District Judge.

Dated October 4th, 1886.

Done in open court this 4th day of October, 1886, at Sitka, district of Alaska, United States of America.

ANDREW T. LEWIS,
Clerk.

On the same day the following motion was filed :

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Charles Spring & Co. and schooner "Onward." Motion to set aside decree.

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the court to set aside the decree rendered herein for

the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

Which motion was by the court overruled, and thereupon the following notice of appeal was filed :

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. Charles Spring & Co. and schooner "Onward." Notice of appeal.

And now come W. Clark & D. A. Dingley, proctors for and in behalf of the claimants herein, and notifies this honorable court that they hereby appeal from the decree rendered herein to the circuit court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and pray the court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

W. CLARK & D. A. DINGLEY,
Proctors for Claimants.

On the 9th day of February, 1887, was entered the following order :

In the matter of the United States vs. Schooner Onward, No. 49. Schooner Thornton, No. 50. Schooner Carolina, No. 51. Schooner San Diego, No. 52. Arms and Ammunition Schr. Sierra, No. 57. Arms and Ammunition Schr. City of San Diego, No. 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of venditioni exponas do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes and furniture of whatsoever description, and of the arms and ammunition attached in said causes. And as to said attached vessels that the sale of the same (except the schooner *San Diego*, which shall be sold at Sitka) shall be made at Port Townsend in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco in the District of California, and that sale of said schooner *San Diego*, and all the other attached property be made at Sitka in the district of Alaska. Thirty days notice of such sales to be given at each of the places where the same are to be made, by posting such notice or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE, U. S. DIST. COURT, DISTRICT OF ALASKA,
Sitka, March 10, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States *vs.* the schooner *Onward*, her tackle, apparel, &c., on libel of information, &c., pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom, and of the whole of such original record, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the said purport of exhibits is correctly stated, as the same appears of record at my office and in my custody.

[SEAL.]

ANDREW T. LEWIS,
Clerk.

[Inclosure 3.]

Transcript of record in the case of the schooner Thornton.

The United States, libellant, vs. The Schooner *Thornton*, her tackle, &c. On libel of information for being engaged in the business of killing fur seal in Alaska.

On the 28th day of August, 1886, was filed the following libel of information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,

Judge of said district court:

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the revenue-marine service of the United States and on special duty in the waters of the district of Alaska, heretofore, to wit, on the first day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Thornton*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to the said attorney unknown, as forfeited to the United States for the following causes:

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the beforementioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture may, for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the said United States according to the form of the statute of the said United States in such cases made and provided.

M. D. BALL,

United States District Attorney for the District of Alaska

Whereupon forthwith issued the following monition:

DISTRICT OF ALASKA SCT:

The President of the United States of America to the marshal of the district of Alaska greeting:

Whereas a libel of information hath been filed in the district court of the United States for the District of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the District aforesaid, on behalf of the United States of America against the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, etc., may be cited in general and special to answer the premises and all proceedings being had, that the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture may for the causes in the said libel of information mentioned be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until

the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the District of Alaska on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka, in the District of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty-six, and of the independence of the United States the one hundred and eleventh.

[SEAL.]

ANDREW T. LEWIS,
Clerk.

On September 6th, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States of America vs. The Schooner Thornton.

UNITED STATES OF AMERICA, *District of Alaska*, ss:

C. A. Abbey, being duly sworn, deposes and says:

That he is and at all times herein mentioned was a captain in the United States revenue marine, and in command of the United States revenue-cutter *Corwin*.

That affiant and the following-named officers of said *Corwin* are material and necessary witnesses for the United States in the above-entitled action: J. C. Cantwell, lieutenant; J. U. Rhodes, lieutenant; J. H. Douglass, pilot.

That owing to scarcity of provisions and fuel upon said cutter *Corwin*, the said *Corwin* and deponent and said witnesses will be obliged to and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Hans Guttormsen was master and in possession of said schooner *Thornton* at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me this 6th day of September, 1886.

ANDREW T. LEWIS,
Clerk.

On the same day was entered the following order:

In the matter of the United States vs. Schooner Thornton, Case No. 50; Schooner Carolina, case No. 51; Schooner Onward, case No. 49; Schooner San Diego, case No. 52.

In the above-entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now, on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thomas Singleton, and T. Lorensen be taken before the clerk of the said district court on Tuesday, the 7th day of September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached at the office of said clerk at Sitka, and if not completed on said evening, then the taking of said depositions to be continued by said clerk from time to time until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, esq., attorney at law, on or before September 7th at 12 m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886, now at this time W. Clark, esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

United States of America vs. The Schooner Thornton.

To Hans Guttormsen greeting: you are notified that by order of Lafayette Dawson, judge of said district court, the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglas will be taken before the clerk of said district court at his office in Sitka in said district on Tuesday, September 7th, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk from time to time until completed.

Dated September 7, 1886.

ANDREW T. LEWIS,
Clerk.

UNITED STATES OF AMERICA, } ss.
DISTRICT OF ALASKA.

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within named Hans Guttormsen, at Sitka, District of Alaska, by then and there personally delivering to said Hans Guttormsen a copy of said notice, and then and there gave him the privilege of being present at the taking of said depositions.

Dated September 9th, 1886.

BARTON ATKINS,
U. S. Marshal.

On September 10th, 1886, were filed the following depositions:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States vs. The Schooner Thornton. No. 50.

Depositions of witnesses sworn and examined before me on the 7th day of September, A. D. 1886, at 7 o'clock p. m. of said day, and on September 8th and 9th, 1886, thereafter, at the clerk's office of said court in Sitka, District of Alaska, United States of America, by virtue and in pursuance of the order of said court, made and entered in the above entitled action on September 6th, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said district court between the United States as plaintiff and the schooner *Thornton* as defendant, on behalf and at the instance of the said plaintiff, the United States, and upon notice of the time and place of the taking of said depositions, served upon Hans Guttormsen, the captain of said schooner and in possession thereof at time of seizure, and upon W. Clark, esq., his attorney, the owners thereof being unknown and without the jurisdiction of this court.

Captain C. A. Abbey, being duly sworn, desposes and says:

Q. State your name and occupation.—A. Captain C. A. Abbey, in the United States Revenue Marine Service, at present in command of the U. S. Revenue Steamer *Corwin*, on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests in Alaska generally.

Q. What were you doing and what occurred on the 1st day of August last in the line of your duty?—A. I was cruising in Behring Sea, about 70 miles south-southeast from St. George Island, in about latitude and longitude . I found the 4 boats of the British steam schooner *Thornton*, of Victoria, B. C., engaged in killing fur seal. Each boat had in her from three to eight freshly-killed seal, arms, and ammunition, rowers, and hunters, who stated that they belonged to the said schooner *Thornton*, and were engaged in taking or killing fur seal. Some of them, if not all, were seen shooting at the fur seal which were swimming in their neighborhood. On this evidence I caused the vessel to be seized by Lient. Cantwell; took her in tow and proceeded with her to Oonalaska, where I placed the vessel, cargo, tackle, furniture and appurtenances in charge of Deputy U. S. Marshal Isaac Andersou, of Oonalaska, the

cargo of fur-seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company and under seal. One boat of the *Thornton* was sent to Sitka by the schooner *San Diego* and placed in custody of the U. S. marshal at Sitka. All of this property is now in the custody of the U. S. marshal at Sitka, including her arms and ammunition, which I brought to Sitka on the *Corwin*.

Q. Was this the vessel against which the libel of information is filed?—A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of ten tons burden or over?—A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

Lieut. John C. Cantwell, being duly sworn, deposes and says:

Q. State your name, occupation, and age.—A. John C. Cantwell, 3rd lieutenant U. S. Revenue Marine Service; at present on duty U. S. revenue steamer *Corwin*, and over the age of twenty-one years.

Q. Were you so on the 1st day of August last?—A. I was.

Q. State what occurred on that day in the line of your duty.—A. I saw a small boat on the port bow; we came up to her and found she had about 8 fur seal aboard. The men in the boat were armed with breech-loading rifles. In answer to the commanding officer the men admitted they were killing fur seal. Shortly after we picked up a second boat and then sighted the schooner *Thornton*. There were dead seal in the second boat. I did not examine the other boats; I was sent on board the schooner; saw Hans Guttormsen apparently acting as captain and Henry Norman as mate. I asked them what they were doing. The captain replied, catching seals. I signaled this to Capt. Abbey, who directed me to seize her, which I did, and the *Corwin* took the schooner in tow. The fur seals in the boats were bleeding and must have been killed within a few hours.

Q. How many men were on board of the *Thornton* at the time of seizure?—A. About fifteen.

Q. Was this a reasonable number for ordinary purposes of commerce and navigation?—A. It was an unusually large number for the size of the vessel.

Q. Do you recognize this paper?—A. I do. It is the official inventory made by me of the furniture, tackle, and cargo of the schooner *Thornton* (inventory embraces the usual furniture, rigging, nautical instruments, boats, and stores of a vessel of this class with a cargo of 403 seal skins, 3 seal pup skins, and one hair seal skin, and they are receipted for by I. Anderson, deputy U. S. marshal, Oonalaska, August 14th, 1886); the item, 403 seal skins, mentioned in the inventory, are fur seal skins; this inventory gives a full and correct list of all the furniture, tackle, and cargo of said vessel, with the exception of the following: Arms and ammunition, octant, and one chronometer. There is one boat belonging to the *Thornton* that was sent down on the *San Diego* and included in the inventory of the *San Diego*. The *Thornton* had four boats.

JOHN C. CANTWELL,
3d Lieut., U. S. R. M.

Subscribed and sworn to before me, this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

John U. Rhodes being duly sworn deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes, over 21 years of age, and lieutenant in the U. S. Revenue Marine and attached to the revenue steamer *Corwin*, and was so on the 1st day of August, 1886.

Q. State what happened on the last named day in connection with the schooner *Thornton*.—A. I was on the *Corwin* at the time the *Thornton* was seized on that day. We first picked up a boat bearing the name *Thornton*; it had about 8 dead fur seal in it; the men in the boat had breech-loading rifles; we afterwards picked up another boat and then sighted the schooner *Thornton*, and went on board and was put in charge of her. We afterwards picked up two more boats; the men in the boats claimed that the boats belonged to the *Thornton* and were put on board of her. There were between 15 and 20 dead fur seal on deck and one hair seal. These seal were most of them bleeding and evidently recently killed. The captain and several of the hunters said they had killed 21, I think it was, fur seals that day, and would have got more if they had had more daylight and if the cutter had not come up.

Q. Do you recognize these papers?—A. I do. This paper marked (Ex. G) is the clearance paper of the schooner *Thornton* (this paper represents the British steam schooner *Thornton*, *Hans Guttormsen*, master, 22³⁰/₁₀₀ tons, navigated with 15 men, bound for the Pacific Ocean, Behring Sea, and Okhotsk Sea, on a hunting and fishing voyage, as having cleared from Victoria, B. C., May 15th, 1886). This paper marked (Ex. H) is her bill of health (issued same date and place with clearance). I found these papers in the schooner *Thornton* at the time of seizure and then took possession of them.

Q. What was the list of arms and ammunition found aboard the schooner *Thornton* at the time of seizure?—A. 4 rifles, 6 shotguns, 867 shotgun cartridges, 420 rifle-gun cartridges, 108 lbs. powder, 1 keg powder partly filled, 2 bags bullets, 11 bags buck-shot, 5 boxes of wads, 3 $\frac{1}{2}$ boxes primers.

Q. What has become of these arms and ammunition?—A. They were delivered to the U. S. marshal at Sitka, and are now in his custody.

JOHN U. RHODES,
Lieut. U. S. E. M.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to the deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes; Lieut. U. S. revenue marine; at present on duty on the U. S. revenue steamer *Corwin*; and over the age of 21 years.

Q. State what nautical instruments, if any, were seized on the schooner *Thornton*, except such as are included in her general inventory.—A. One chronometer, No. 1374, made by Kessels, and one octant.

Q. What has become of this property?—A. I turned it over to the U. S. marshal at Sitka, and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to the deponent.

[SEAL.]

ANDREW T. LEWIS,
Clerk U. S. Dist. Court.

J. H. Douglas, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. J. H. Douglas; am over 21 years; am a pilot in the Revenue-Marine Service of the United States, and have been so for the 7 years last past. I am now, and on the first of August, 1886, was, pilot on the revenue steamer *Corwin*.

Q. State what occurred on the last-named day in connection with the schooner *Thornton*.—A. We sighted a boat on our port bow and soon after saw another boat; steamed to the first boat and ordered her to come alongside, which she did. The name steamer *Thornton* was on the stern of the boat. There were two or three men in the boat with arms and 6 or 8 dead fur seal, which had the appearance of having been lately killed. I asked the men what luck they had had. One of them replied "We have 6 or 8, but not as good as some days." We took possession of the boat and contents by order of Capt. Abbey. We then picked up the second boat, finding it engaged in the same business; then we sighted a schooner drifting without sail or steam, which proved to be the steam schooner *Thornton*. On coming up with her she was seized, by order of Capt. Abbey, and taken in tow. We then picked up two more boats belonging to the *Thornton* having dead fur seal on board. This was in Behring Sea, about 65 miles southeast from St. Georges Island and about 500 or 600 miles to the eastward of the western boundary line of Alaska Territory.

Q. State what experience you have had in the fur-sealing business and your knowledge of the habits of the fur seal.—A. I have been cruising for more than 15 years off and on in Alaskan waters, always as an officer or pilot, and have visited the Pribiloff Islands, St. Paul, and St. George several hundred times and am perfectly familiar with the sealing business as conducted on those islands, and understand the migrating habits of the fur seals. From about the 1st of May to about the 1st of July of each year the fur seal is migrating north and mostly through the Unimak and Akutan passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Island for breeding purposes.

After the breeding season of about a month they begin to migrate south, and until November of each year are migrating south through Behring Sea. During this season from May till November the fur seal are plenty in the waters adjoining the Pribiloff Islands, and are migrating to and from these islands, and are at all times very plenty between Unimak Pass and said islands in a track about 30 miles wide which seems to be

their highway to and from said islands. The schooner *Thornton* and her boats when seized were directly on this track.

J. H. DOUGLASS.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

A. T. LEWIS,
Clerk U. S. Dist. Court.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

The United States vs. The Schooner "Thornton." No. 50.

Whereas on the 6th day of September, 1886, the said district court duly made and entered in the journal of said court an order in the above-entitled action directing that the testimony and depositions of the witnesses, C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglass be taken before me, the clerk of said court, at the time or times and place and upon such notice as was specified in said order.

Now, therefore, this is to certify, that in pursuance of said order, on September 7th, 1886, at 7 o'clock p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, district of Alaska, United States of America; that M. D. Ball, esq., dist. attorney of said court and district, and W. H. Payson, esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners herein; and Hans Guttormsen then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last named day. That the said parties by their said attorneys and proctors then and there appeared and were present on each of said last named days and at all times during the taking of said depositions. That each of said witnesses was first duly cautioned and sworn by me, then and there, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he, then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

In witness whereof I have hereunto set my hand and the seal of said district court this 9th day of September, 1886.

ANDREW T. LEWIS,
Clerk U. S. Dist. Court in and for the District of Alaska, United States of America.

On the 20th day of September, 1886, was filed the following claim of master for owner:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

In the matter of the libel of information against the schooner Thornton, her tackle, apparel, furniture, and cargo. Claim of master for owner.

And now Hans Gutormsen, master of the schooner *Thornton*, intervening for the interest of J. D. Warren, of Victoria, B. C., the owner of the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in the said libel of information, and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, esq., United States district attorney for the district of Alaska.

And the said Hans Gutormsen avers that the said J. D. Warren was in possession of the said schooner at the time of the attachment thereof.

And that the said J. D. Warren, above named, is the true and bona fide owner of the said schooner, her tackle, apparel, cargo, and furniture, as seized by the said marshal as aforesaid, and that no other person is the owner thereof. Wherefore he prays to defend accordingly.

HANS GUTTORMSEN.

Subscribed and sworn to before me this 18th day of September, A. D. 1886.

[SEAL.]

ANDREW T. LEWIS,

Clerk of the U. S. Dist. Court for the District of Alaska.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

On the same day was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA. AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,

Judge of said District Court :

The amended libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the Revenue-Marine Service of the United States, duly commissioned by the President of the United States, in command of the United States revenue-cutter *Corwin*, and on special duty in the waters of the district of Alaska heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:

1. Schooner *Thornton*, of Victoria, B. C., 4 boats with oars, sails, and gear; carpenter's and caulking tools and materials; 5 tons of coal, 10 yds. of canvas, clock, chronometer, nautical instruments, provisions, sails and running gear, ropes, twine, lamps, oil, casks, buckets, engine and gear, 20 sacks of salt, 403 fur-seal skins, 1 hair-seal skin, 3 pup-seal skins, 4 rifles, 6 shotguns, and arms and ammunition for same, and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel, her captain, officers, and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalaska in said Territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka in said district and turned over to the United States marshal of this district, and all of said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney as aforesaid, further informs and alleges:

That on the 1st day of August, 1886, Henry Norman and certain other persons whose names are to said United States attorney unknown, who were then and there engaged on board of the said schooner *Thornton* as seamen and seal hunters, did, under the direction and by the authority of Hans Guttormsen, then and there master of said schooner, engage in killing and did kill, in the territory and district of Alaska, and in the waters thereof, to wit, 20 fur seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 403 fur-seal skins, 3 pup skins, 1 hair-seal skin, and other goods so seized on board of said schooner *Thornton* constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court, and that by reason thereof and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her said tackle, apparel, boats, cargo, and furniture became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause on the return day of said process why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged decreed and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

M. D. BALL,
U. S. Dist. Attorney for the District of Alaska.

Dated September 20th, 1886.

On the same day was filed the following demurrer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and schooner "Thornton." Demurrer.

The demurrer of J. D. Warren, claimant of the property proceeded against in the above cause to the information filed herein.

1st. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters, in manner and form as the same are in the information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2d. The said claimant by protestation denies that this court has jurisdiction to determine or try the question hereby put in issue.

3d. And that the said claimant is not bound in law to answer the same.

Wherefore claimant prays that said information may be dismissed with costs.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

Which demurrer was overruled by the court, and on the same day was filed the following answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and schooner "Thornton." Answer of claimant.

The answer of J. D. Warren, owner and claimant of the said schooner *Thornton*, her tackle, apparel, cargo, and furniture, as the same are set forth in the information filed herein in behalf of the United States.

And now comes J. D. Warren, claimant as aforesaid, and for answer to the said information against the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in said information, says that the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore the said claimant prays that said information be dismissed, with costs to this claimant attached.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

On the 22nd of September, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

United States vs. The Schooner Thornton. No. 50.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:

1st. Said answer is not properly or at all verified as required by Rule 27 of the U. S. Admiralty rules.

2nd. Said answer is not full, explicit, or distinct to each or any allegation of the libel herein, as required by said rule,

3rd. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

M. D. BALL & W. H. PAYSON,
Proctors for Libellant.

SEPTEMBER 21st, 1886.

Which exceptions were sustained by the court and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner Thornton. Amended answer.

To the honorable LAFAYETTE DAWSON,
Judge of the United States District Court for the District of Alaska:

Hans Guttormson, master of the schooner *Thornton*, intervening for the interest of and in behalf of J. D. Warren, owner and claimant of said schooner *Thornton*, her tackle, apparel, furniture, and cargo, for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1st. That he denies each and every material allegation in said libel of information contained.

2d. Denies that the said schooner *Thornton*, her tackle, apparel, furniture, cargo, and the property appertaining thereto, as set forth and described in said libel of information, or any part thereof, became forfeited to the United States.

3d. Denies that said schooner, her captain, officers, and crew, or any one of them, were found engaged in killing fur seal within the limits of Alaska Territory, and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States, as set forth in said libel of information, or at all.

4th. Denies that they killed any number of fur seal or other fur-bearing animals within the waters of Alaska, or the Territory of Alaska, or in any part thereof.

5th. That all and singular the premises herein are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein, and that the same may be dismissed with costs to the claimants to be taxed.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

UNITED STATES, District of Alaska, ss:

Hans Guttormson, being first duly sworn, says he is master of the schooner *Thornton*, that he has heard read the foregoing answer and knows the contents thereof, and that the same is true of his own personal knowledge.

H. GUTTORMSEN.

Subscribed and sworn to before me this 22d day of September, A. D. 1886.

ANDREW T. LEWIS,
Clerk of the U. S. Dist. Court for the District of Alaska.

On the 4th day of October, 1886, the motion cited, page 5, was returned with the following indorsement:

SITKA, District of Alaska, ss:

Be it remembered that, in obedience to the annexed monition, I have attached the within described property and now hold the same in my possession subject to the order of this honorable court.

And I have given due notice to all persons claiming said property to be and appear before this district court on the 4th day of October, 1886, at 10 o'clock a. m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf.

And I have caused said notice to be published, and the same has been published in the Alaskan, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto until 4th day of October, 1886.

BARTON ATKINS,
Marshal Dist. of Alaska.

SITKA, ALASKA, October 4, 1886.

On the same day was filed the following decree:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA,
UNITED STATES OF AMERICA.

United States vs. The Schooner Thornton. No. 50.

The marshal having returned on the monition issued to him in the above-entitled action that in obedience thereto he has attached the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock a. m., at the district of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and Hans Guttormsen, the captain of said vessel, having heretofore filed a claim to all of said property on behalf of J. D. Warren, of Victoria, B. C., the owner thereof, and no other persons having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, esq., and W. H. Payson, esq., appearing as advocates for said libellant, and W. Clark as advocate for said claimant; and said cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1st. That all persons whatsoever other than said claimant be, and they are hereby, declared in contumacy and default.

2nd. That the said schooner *Thornton*, her tackle, apparel, boats, and furniture, and her cargo of 403 fur-seal skins, and all other property found upon and appurtenant to said schooner, be, and the same are hereby, condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of this court, the usual writ of venditioni exponas be issued to the marshal commanding him to sell all of the said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimant.

LAFAYETTE DAWSON,
District Judge.

Dated October 4th, 1886.

Done in open court this 4th day of October, 1886, at Sitka, district of Alaska, United States of America.

Clerk.

On the same day was filed the following motion to set aside decree:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner "Thornton." Motion to set aside decree.

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

Which motion was overruled by the court, and on the same day was filed the following notice of appeal:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

United States vs. J. D. Warren and Schooner "Thornton." Notice of appeal.

And now come W. Clark & D. A. Dingley, proctors for and in behalf of the claimant herein, and notifies this honorable court that they hereby appeal from the decree rendered herein to the circuit court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and prays the court for an order on its clerk to prepare a complete transcript of the records herein, as the law requires.

W. CLARK & D. A. DINGLEY,
Proctors for Claimant.

On the 9th day of February, 1887, was entered the following order :

In the matter of the United States vs. Schooner Onward, Case No. 49; Schooner Thornton, Case No. 50; Schooner Carolena, Case No. 51; Schooner San Diego, Case No. 52; Arms and Ammunition Schr. Sierra, No. 57; Arms and Ammunition Schr. San Diego, No. 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of venditioni exponas do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes, and furniture of whatsoever description, and of the arms and ammunition attached in said causes, and as to said attached vessels that the sale of the same (except the schooner *San Diego*, which shall be sold at Sitka) shall be made at Port Townsend, in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the district of California, and that sale of said schooner *San Diego* and all the other attached property be made at Sitka, in the district of Alaska. Thirty days' notice of such sale to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE U. S. DIST. COURT, DISTRICT OF ALASKA,
Sitka, March 10, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States vs. the schooner *Thornton*, her tackle, apparel, &c., on libel of information pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of such original, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court this 10th day of March, 1887.

[SEAL.]

ANDREW T. LEWIS,
Clerk.

No. 15.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, August 11, 1887. (Received August 12.)

SIR: I have the honor to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated Victoria, British Columbia, August 7, reporting the seizure by United States cruisers of three British Columbian sealing schooners in Behring's Sea, a long distance from Sitka, and that several other vessels were in sight being towed in.

In conveying this information to you, I am requested at the same time by the Marquis of Salisbury to state that, in view of the assurances given in your note of the 3d of February last, Her Majesty's Government had assumed that pending the conclusion of discussions between the two governments on general questions involved, no further seizures would be made by order of the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

No. 16.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, August 13, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, received yesterday afternoon, informing me of a telegraphic communication from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated at Victoria, British Columbia, August 7, reporting the seizure of three British Columbian sealing schooners "in Behring Sea, a long distance from Sitka," and that "several other vessels were in sight being towed in."

The reference to my note to you of the 3d of February last, which you make under the instruction of the Marquis of Salisbury, has caused me to examine the expressions contained therein, and I can discover no ground whatever for the assumption by Her Majesty's Government that it contained assurances "that pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government."

Until your note of the 11th instant was received, I had no information of the seizure of the sealing vessels therein referred to, and have no knowledge whatever of the circumstances under which such seizures have been made.

I shall at once endeavor to supply myself with the information necessary to enable me to reply to you more fully.

The cases of seizure referred to in my note of February 3, 1887, had occurred during the previous August, and upon the basis of the information then obtained I wrote you as follows:

In this connection I take the occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

Having no reason to anticipate any other seizures, nothing was said in relation to the possibility of such an occurrence, nor do I find in our correspondence on the subject any grounds for such an understanding as you inform me had been assumed to exist by Her Britannic Majesty's Government.

A short time since, when you called upon me and personally obtained copies of the record of the judicial proceedings in the three cases of seizure in August last in Behring Sea, nothing was said in relation to other cases. Whether the circumstances attendant upon the cases which you now report to me are the same as those which induced the Executive to direct the releases referred to, remains hereafter to be ascertained, and this with as little delay as the circumstances will permit.

I have, etc.,

T. F. BAYARD.

No. 17.

*Marquis of Salisbury to Sir L. S. Sackville West.**

FOREIGN OFFICE, September 10, 1887.

SIR: By a dispatch of the 30th October last (No. 214) the late Earl of Iddesleigh instructed you to call the attention of the United States

*Left at the Department of State by Sir L. S. Sackville West, Sept. 23, 1887.

Secretary of State to the circumstances of the seizure in Behring's Sea, by the American cruiser *Corwin*, of some British Canadian vessels; and his lordship directed you to state to Mr. Secretary Bayard that Her Majesty's Government felt sure that if the proceedings which were reported to have taken place in the United States district court were correctly described the United States Government would admit their illegality, and would cause reasonable reparation to be made to the British subjects for the wrongs to which they had been subjected and for the losses which they had sustained.

By a previous dispatch of the 9th September, you had been desired to ask to be furnished with any particulars which the United States Government might possess relative to the seizures in question; and on the 10th October you were instructed to enter a protest on behalf of Her Majesty's Government, and reserve for consideration hereafter all rights to compensation.

Nearly four months having elapsed without any definite information being furnished by the United States Government as to the grounds of the seizures, my predecessor instructed you, on the 8th of June [January?] last, to express to Mr. Bayard the concern of Her Majesty's Government at the delay, and to urge the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels and of their masters and crews.

On the 3d February Mr. Bayard informed you that the record of the judicial proceedings which he had called for was shortly expected to reach Washington, and that, without conclusion at that time of any questions which might be found to be involved in these cases of seizures, orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

On the 4th of April, under instructions from me, you inquired of Mr. Bayard, in view of the approaching fishing season in Behring's Sea, whether the owners of British vessels might rely when not near land on being unmolested by the cruisers of the United States, and you again asked when the record of the judicial proceedings might be expected.

Mr. Bayard informed you, in reply (12th April), that the papers referred to had reached him and were being examined; that there had been unavoidable delay in framing appropriate regulations and issuing orders to the United States vessels to police the Alaskan waters; that the Revised Statutes relating to Alaska, sections 1956 and 1971, contained the laws of the United States in relation to the matter; and that the regulations were being considered, and he would inform you at the earliest day possible what had been decided, so that British and other vessels might govern themselves accordingly.

In view of the statements made by Mr. Bayard in his note of the 3d February, to which I have referred above, Her Majesty's Government assumed that, pending a conclusion of the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government. They learn, however, from the contents of Mr. Bayard's note of the 13th ultimo, inclosed in your dispatch, No. 245, of the 15th ultimo, that such was not the meaning which he intended should be attached to his communication of the 3d February; and they deeply regret to find a proof of their misinterpretation of the intentions of the United States Government from an announcement recently received from the commander-in-chief of Her Majesty's naval forces in the Pacific, that several more British vessels engaged in seal hunting

in Behring's Sea have been seized when a long distance from land by an American revenue vessel.

Her Majesty's Government have carefully considered the transcript record of the judicial proceedings in the United States district court in the several cases of the schooners *Carolina*, *Onward*, and *Thornton*, which were communicated to you in July, and were transmitted to me in your dispatch, No. 196, of the 12th of that month, and they can not find in them any justification for the condemnation of those vessels.

The libels of information allege that they were seized for killing fur seal within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States; and the United States Naval Commander Abbey certainly affirmed that the vessels were seized within the waters of Alaska and the Territory of Alaska, but according to his own evidence, they were seized 75, 115, and 70 miles, respectively, south-southwest of St. George's Island.

It is not disputed, therefore, that the seizures in question were effected at a distance from land far in excess of the limit of maritime jurisdiction, which any nation can claim by international law, and it is hardly necessary to add that such limit can not be enlarged by any municipal law.

The claim thus set up appears to be founded on the exceptional title said to have been conveyed to the United States by Russia at the time of the cession of the Alaska Territory.

The pretension which the Russian Government at one time put forward to exclusive jurisdiction over the whole of Behring Sea was, however, never admitted either by this country or the United States of America. On the contrary, it was strenuously resisted, as I shall presently show, and the American Government can hardly claim to have received from Russia rights which they declared to be inadmissible when asserted by the Russian Government. Nor does it appear from the text of the treaty of 1867 that Russia either intended or purported to make any such grant, for by Article I of that instrument Russia agreed to cede to the United States all the territory and dominion then possessed by Russia "on the continent of America and in the adjacent islands" within certain geographical limits described, and no mention was made of any exclusive right over the waters of Behring Sea.

Moreover, whatever rights as regards their respective subjects and citizens may be reciprocally conferred on the Russian and American Governments by treaty stipulation, the subjects of Her Majesty can not be thereby affected, except by special arrangement with this country.

With regard to the exclusive claims advanced in times past by Russia, I transmit to you documents communicated to the United States Congress in 1822, which show the view taken by the American Government of these pretensions.

In 1821 the Emperor of Russia had issued an edict establishing "rules for the limits of navigation and order of communication along the coast of the eastern Siberia, the northwestern coast of America, and the Aleutian, Kurile, and other islands."

The first section of the edict said :

The pursuit of commerce, whaling, and fishing, and of all other industry on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Behring Straits to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the Island of Urup, viz, to the 45° 50' of northern latitude, is exclusively granted to Russian subjects.

And section 2 stated :

It is, therefore, prohibited to all foreign vessels, not only to land on the coast and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

A copy of these regulations was officially communicated to the American Secretary of State by the Russian minister at Washington on the 11th February, 1822, whereupon Mr. Quincy Adams, on the 25th of that month, after informing him that the President of the United States had seen with surprise the assertion of a territorial claim on the part of Russia extending to the fifty-first degree of north latitude on the American continent, and a regulation interdicting to all commercial vessels other than Russian upon the penalty of seizure and confiscation the approach upon the high seas within 100 Italian miles of the shores to which that claim was made to apply, went on to say that it was expected, before any act which should define the boundary between the territories of the United States and Russia, that the same would have been arranged by treaty between the parties, and that "to exclude the vessels of American citizens from the shore beyond the ordinary distance to which territorial jurisdiction extended has excited still greater surprise;" and Mr. Adams asked whether the Russian minister was authorized to give explanations of the "ground of right upon principles generally recognized by the laws and usages of nations which can warrant the claims and regulations."

The Russian minister in his reply, dated the 28th February, after explaining how Russia had acquired her possessions in North America, said:

I ought, in the last place, to request you to consider, sir, that the Russian possessions in the Pacific Ocean extend on the northwest coast of America from Behring's Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent from the same strait to the 45th degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to shut seas (*'mers fermées'*), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners; but it preferred only asserting its essential rights without taking advantage of localities.

On the 30th March Mr. Adams replied to the explanations given by the Russian minister. He stated that, with respect to the pretension advanced in regard to territory, it must be considered not only with reference to the question of territorial rights, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. That from the period of the existence of the United States as an independent nation their vessels had freely navigated these seas, the right to navigate them being a part of that independence; and with regard to the suggestion that "the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, 'because it claims territory both on its American and Asiatic shores,' it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than 90° of longitude or 4,000 miles." Mr. Adams concluded as follows:

The President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

The convention between the United States of America and Russia of the 17th April, 1824, put an end to any further pretension on the part of

Russia to restrict navigation or fishing in Behring Sea so far as American citizens were concerned; for by Article I it was agreed that in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall neither be disturbed nor restrained, either in navigation or fishing, saving certain restrictions which are not material to the present issue; and a similar stipulation in the convention between this country and Russia in the following year (15th May, 1825), put an end as regarded British subjects to the pretensions of Russia to which I have referred, and which had been entirely repudiated by Her Majesty's Government in correspondence with the Russian Government in 1821 and 1822, which for your more particular information I inclose herein.

Her Majesty's Government feel sure that, in view of the considerations which I have set forth in this dispatch, which you will communicate to Mr. Bayard, the Government of the United States will admit that the seizure and condemnation of these British vessels and the imprisonment of their masters and crews were not warranted by the circumstances, and that they will be ready to afford reasonable compensation to those who have suffered in consequence, and issue immediate instructions to their naval officers which will prevent a recurrence of these regrettable incidents.

I am, etc.,

SALISBURY.

No. 18.

Sir L. S. Sackville West to Mr. Bayard.

BRITISH LEGATION,
Washington, September 29, 1887. (Received September 29.)

SIR: I have the honor to inform you that Her Majesty's Government have been officially informed that the British vessels, mentioned in your note of the 3d of February last, have not been released, and that I am instructed to inquire the reason for the delay in complying with the orders sent to this effect, as stated in your above-mentioned note.

I have, etc.,

L. S. SACKVILLE WEST.

No. 19.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, October 4, 1887. (Received October 5.)

SIR: I have the honor to inclose herewith a letter addressed to the United States district attorney and United States marshal at Sitka, which has been forwarded to me by the governor-general of Canada for transmission to you.

Lord Lansdowne states that this letter came into the possession of the Canadian government through the captain of the sealing schooner *Alfred Adams*, to whom it was given by the first lieutenant of the United States revenue-cutter *Richard Rush*, after boarding the said schooner and confiscating the skins and arms contained in her.

His excellency adds, by way of explanation, that the envelope of the letter which is described by the minister of marine in the report transmitting it as sealed and unopened appears to have been worn through at one end in transmission by post.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Captain Shepard to the United States district attorney and United States marshal of Alaska.

U. S. REVENUE STEAMER RUSH,
Behring Sea, August 6, 1887.

GENTLEMEN: I have the honor to inform you that I have this day seized the British schooner *Alfred Adams*, of Victoria, B. C., W. H. Dyer, master, and Hugh McKay, of Victoria, B. C., managing owner, for violation of law, section 1956, Revised Statutes.

I have taken the seal skins (which will be delivered to the United States deputy marshal at Oonalaska) and his arms on board the United States revenue steamer *Rush*, and ordered the captain to proceed with his vessel to Sitka, Alaska, and on his arrival to set his crew at liberty, and to report in person to you, and I have to request that you will take charge of this vessel and her officers until I can appear in the United States district court against them, about September 1 next.

I am, etc.,

L. G. SHEPARD,
Captain United States Revenue Marine.

No. 20.

Mr. Bayard to Mr. Garland.

DEPARTMENT OF STATE,
Washington, October 7, 1887.

SIR: I have the honor to transmit to you herewith, for your information, a copy of a note to this Department from the British minister at this capital, inclosing a letter, addressed to the United States district attorney and the United States marshal at Sitka; and stating the manner in which it reached the minister's hands.

I have, etc.,

T. F. BAYARD.

No. 21.

Mr. Bayard to Mr. Garland.

DEPARTMENT OF STATE,
Washington, October 8, 1887.

SIR: With reference to the copy of your telegram of the 28th of January, which accompanied your letter of the 21st of May, 1887, to this Department, relative to the order issued by you for the release of the British sealing vessels *Carolina*, *Onward*, and *Thornton*, I have now the honor to inclose herewith, for your information, a copy of a note from Sir

Lionel West, Her Britannic Majesty's minister at this capital, in which it is alleged that the vessels in question have not been released.

In view of the fact the minister was informed, on the 3d of February last, that the order for the discharge of the vessels referred to had been issued, I shall feel much obliged if you will kindly cause this Department to be furnished with such information as will enable me to reply fully to Sir Lionel West's note.

I have, etc.,

T. F. BAYARD.

No. 22.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, October 11, 1887.

SIR: I have the honor to acknowledge your note of the 29th ultimo, stating that Her Majesty's Government had been officially informed that the British vessels referred to in my note to you of the 3d of February last had not been released, and asking the reason for the delay in complying with the orders of the Executive in that regard.

Upon receiving your note I at once wrote to my colleague, the Attorney-General, as the head of the Department of Justice, in order that I might be enabled to reply satisfactorily to your inquiry.

I am still without answer from him, which, when received, shall be promptly communicated to you.

In the meantime, in acknowledging your note I take occasion to state my impression that if the three vessels seized and ordered to be released have not been repossessed by their owners, it is not because of any hindrance on the part of any official of this Government, or failure to obey the order for release, but probably because of the remoteness of the locality (Sitka) where they were taken after arrest for adjudication, and the proceedings having been *in rem*, the owners have not seen proper to proceed to Alaska and repossess themselves of the property in question.

Accept, sir, etc.,

T. F. BAYARD.

No. 23.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, October 12, 1887. (Received October 13.)

SIR: In connection with the representation which I was instructed to make to you respecting the seizure of the British schooners *Onward*, *Carolina*, and *Thornton*, by the United States cruiser *Corwin*, in Behring's Sea, I have the honor to inform you that I am now further instructed to make similar representations in the cases of the British Columbian vessels *Grace*, *Dolphin*, and *W. P. Sayward*, seized lately by the United States revenue-cutter *Richard Rush*, and at the same time, as in the

cases of the *Onward*, *Carolina*, and *Thornton*, to reserve all rights to compensation on behalf of the owners and crews.

I am also instructed to point out to you that according to the deposition of the mate of the *W. P. Sayward*, a copy of which is inclosed, no seals had been taken by her crew in Behring's Sea, as is alleged in the libels of information filed on behalf of the United States district attorney in the district court of Alaska.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Deposition of Andrew Lang, mate of the schooner W. P. Sayward.

DECLARATION.

I, Andrew Lang, of Victoria, mate of the British schooner *W. P. Sayward*, do solemnly and sincerely declare—

That I left Victoria, British Columbia, in the schooner *W. P. Sayward* on the 16th day of May, 1887, bound on a sealing voyage, with a crew of seven men and sixteen Indian hunters, with eight canoes.

We commenced sealing off Cape Scott, on the north of Vancouver Island, and killed 479 fur seals in the Pacific Ocean, and entered the Bering's Sea on July 2, 1887, passing between Umnak Island and the Island of the Four Mountains. The weather was very thick and foggy, and we did no sealing in Bering's Sea in consequence.

On the 9th July we were captured by the United States steamer *Richard Rush*, being then from 30 to 40 miles off the nearest land. We were taken in tow to Ounalaska, where we arrived on the 10th of July, and they laid us alongside the steamer *St. Paul*, belonging to the Alaska Commercial Company. They removed the seal skins and took them ashore to the wharf and put them in the company's warehouse, and they resalted the skins with salt taken from our vessel. They put an officer from the *Rush* on board and towed us out to sea and told us to go to Sitka.

We arrived there on the 22d July, and on the next day an investigation was held before Judge Dawson, who bound us over to appear on the 22d of August for trial. The vessel was left in charge of the United States officers, and we were only allowed to remove our clothing. The Indians were left to find their way home as they could. They were about 700 miles from their villages.

I further say that when we were taken I spoke to the captain of the *Rush*, and told him we had not taken a seal in Behring's Sea. He replied, "I am sorry for you; I have to obey orders, and take everything I come across in Behring's Sea."

And I make this solemn declaration by virtue of the act passed in the thirty-seventh year of Her Majesty's reign, entitled "An act for the suppression of voluntary and extra-judicial oaths."

A. LANG.

Taken and declared before me at Victoria this 8th day of August, 1887.

M. W. TYRWHITT DRAKE,
Notary Public.

No. 24.

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, October 12, 1887. (Received October 13.)

SIR: In reply to your letter of the 3d instant, inclosing copy of letter from Hon. L. S. Sackville West, with reference to the vessels *Carolina*, *Onward*, and *Thornton*, yesterday I received a letter from the marshal, Barton Atkins, stating in substance that my telegram of the 26th

of January had been thought to be not genuine, and had not been acted upon. To-day I sent him the following telegram :

As the seal skins at San Francisco are perishable, have sale made. Thirty days' leave is granted for that purpose. Let the vessels *Carolena*, *Onward*, and *Thornton* be released, as ordered in mine of the 26th of January ultimo.

I trust this will be obeyed, and the vessels released as directed.

Yours, etc.,

A. H. GARLAND,
Attorney-General.

No. 25.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, October 13, 1887.

SIR: Continuing my reply to your note of the 29th ultimo, inquiring the reason for the delay in complying with the order issued in January last for the release of British vessels seized last year in Behring Sea, I beg leave to inform you that I have this day received a communication from my colleague, the Attorney-General, informing me that his telegram to the United States marshal at Sitka, of January 26 last, ordering the release of the British schooners *Onward*, *Carolena*, and *Thornton*, owing to some misconception and mistake on the part of the official to whom it had been addressed, had not been acted upon.

A renewed order has gone forward for their release, as has been distinctly directed last January, and which I had no reason to doubt had been promptly obeyed.

In my note to you of the 11th instant, I stated it to be my impression that no hindrance to their repossession by the owners of the vessels named existed. This impression it now appears was not well founded; and as my object is to give you the fullest information within my power in relation to all transactions touched in our correspondence, I hasten to communicate the latest report made to me from the Department of Justice.

I take leave also to express my regret that any misconception of the intentions and orders of the President should have delayed their prompt execution.

I have, etc.,

T. F. BAYARD.

No. 26.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, October 13, 1887.

SIR: I have the honor to acknowledge your note of yesterday, in relation to the cases of seizure of the British schooners *Onward*, *Carolena*, and *Thornton*, in Behring Sea, by United States revenue vessels, in August, 1886, and also your instructions to include by similar representations the cases of the British Columbian vessels *Grace*, *Dolphin*, and *W. P. Sayward*, seized by the United States revenue authorities

in Behring Sea, with notification that Her Britannic Majesty's Government reserves all right to compensation on behalf of the owners and crews of the above-mentioned vessels. The affidavit of the mate of the *W. P. Sayward* has been read, and the facts therein stated will be at once investigated.

I have, etc.,

T. F. BAYARD.

No. 27.

Mr. Bayard to Mr. Graland.

[Extract.]

DEPARTMENT OF STATE,
Washington, October 13, 1887.

SIR: I beg to acknowledge your communication of yesterday's date, by which I am surprised to learn of the failure of the United States marshal at Sitka to obey the instruction of the President of January 26 last, for the immediate release of the British sealers *Onward*, *Carolina*, and *Thornton*. I have felt it to be my duty at once to communicate this information to the British minister at this capital.

I have, etc..

T. F. BAYARD.

No. 28.

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, October 15, 1887. (Received October 17.)

SIR: I have the honor to say, in reply to your letter of the 13th instant, in relation to the release of the vessels *Carolina*, *Onward*, and *Thornton*, that before your request was received I had repeated the instructions by telegraph to the marshal for Alaska, and since its receipt have, as you suggested, supplemented the telegram by a letter, both of these communications directing that the instructions of January last be carried out.

Very respectfully,

A. H. GARLAND.

No. 29.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, October 19, 1887. (Received October 21.)

SIR: I have the honor to inform you that I am instructed by the Marquis of Salisbury, Her Majesty's principal secretary of state for foreign affairs, to protest against the seizure of the Canadian vessel *Alfred Adams*, in Behring Seas, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, etc.

L. S. SACKVILLE WEST.

No. 30.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, October 22, 1887.

SIR: I had the honor of receiving last evening your note of the 19th instant, conveying the instruction to you by the Marquis of Salisbury that you should protest against the seizure of the Canadian vessel *Alfred Adams* in Behring Sea, and against the continuance of similar proceedings by the United States authorities on the high seas; and I have, etc.,

T. F. BAYARD.

No. 31.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, October 26, 1887. (Received October 27.)

SIR: With reference to my note of the 19th instant, protesting against the seizure of the British schooner *Alfred Adams*, I have the honor to transmit to you herewith copy of the report of the Canadian minister of marine and fisheries and other papers relating thereto.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

REPORT OF GEORGE E. FOSTER, CANADIAN MINISTER OF MARINE AND FISHERIES.

DEPARTMENT OF FISHERIES—CANADA,
Ottawa, September 15, 1887.

With reference to previous correspondence concerning the seizure and detention of Canadian sealing vessels by the United States authorities in Behring Sea, the minister of marine and fisheries begs to submit for the consideration of his excellency the governor-general in council, the following papers:

(a) A letter from Collector Hamley, of Victoria, B. C., dated September 1, 1887, inclosing certain papers in reference to the seizure of the Canadian sealing schooner *Alfred Adams* in Behring Sea.

(b) The declaration of William Henry Dyer, of Victoria, British Columbia; master of the Canadian schooner *Alfred Adams*;

(c) A certificate of seizure of the *Alfred Adams*, signed by L. G. Shepard, captain of the United States revenue steamer *Rush*.

(d) A sealed and unopened letter directed to the United States district attorney and United States marshal, Sitka, Alaska.

(e) A letter from Collector Hamley, of Victoria, British Columbia, dated July 26, relating to the detention of the Canadian schooners *Onward*, *Carolina*, and *Thornton*, seized in August, 1886, by the United States cutter *Corwin* in Behring Sea.

(f) Copy of a telegram and order purporting to be from the United States Attorney-General and Judge Dawson, respectively, relating to the release of the above-named vessels, and

(g) A letter dated September 3, 1887, from the law firm of Drake, Jackson & Helmcken, of Victoria, containing additional information relating to the same.

From the above-mentioned papers it appears that on the 6th August, 1887, the Canadian schooner *Alfred Adams*, whilst engaged in catching seals in the open sea more than 50 miles distant from the nearest land, was forcibly seized by an armed vessel of the United States, her ship's papers taken, her cargo of seal skins, 1,386 in number, together with all her arms, ammunition, and fishing implements transferred to the United States cutter, and her captain ordered to proceed, with sealed orders, to

Sitka, and to deliver himself, his vessel and men, into the hand of the United States marshal at that place.

This treatment of the *Alfred Adams* whilst peaceably pursuing her lawful calling on the high seas is but a repetition of the unjustifiable seizures of Canadian vessels made by the United States authorities in Behring Sea, and which have been dealt with at length in previous reports to council.

The minister, therefore, does not consider it necessary in this instance to traverse the ground already so fully covered, and recommends that a copy of this report, with the papers attached, be forwarded to Her Majesty's Government for their earnest and immediate consideration, and that a copy thereof be sent to the British minister at Washington, together with the sealed letter given by Captain Shepard to the master of the *Adams*, with the request that it be forwarded to Mr. Secretary Bayard.

With reference to the attached papers E, F, and G, the minister observes that from the first (E) it appears that inquiries made by the collector of customs at Victoria, British Columbia, in July last, resulted in his obtaining the information that Judge Dawson had up to that date received no orders for the release of the Canadian sealing vessels seized in 1886, that the vessels had not been sold, and remained still under seizure, and that Judge Dawson, when questioned as to the report that a telegram had been sent to him by the Attorney-General of the United States ordering the release of the vessels, had replied that he had heard of this report before, but that nothing of the kind had reached either himself or the United States marshal at Sitka. The paper marked F purports to be a copy of a telegram dated January 26, 1887, from the United States Attorney-General Garland to Judge Dawson, ordering him to release the vessels seized in August preceding, and of an order founded thereon from Judge Dawson to the United States marshal at Sitka bearing date February 19, 1887, directing him to "release the *Carolina*, *Onward*, *Thornton*, and *San Diego*, together with all their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels." The third paper, marked G, is a copy of a letter from the law firm of Drake, Jackson & Helmcken, of Victoria, British Columbia, to the minister of justice, informing him that they are advised that a telegram was received by Judge Dawson from the United States Attorney-General, ordering the release of the vessels above referred to; that Judge Dawson did issue an order accordingly, but that he afterwards rescinded the order on the assumption that the telegram was a forgery, and that since "no official letters of any sort, either confirming the telegram or respecting the affair, has been received at Sitka."

The minister observes that if the information conveyed in the above-mentioned papers is correct, of which there appears no reasonable doubt, it reveals a state of affairs by no means satisfactory.

On the 3d of February, 1887, Mr. Secretary Bayard informed the British minister at Washington that "orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to and the release of all persons under arrest in connection therewith." A telegram in accordance with Mr. Bayard's communication appears to have been sent to Alaska, and an order based thereon to have been issued by the district judge, but to have been afterwards rescinded, and no further action has been taken up to date of latest information. Meanwhile the vessels remain under seizure, the seal skins are forfeited, and the property of Canadian citizens forcibly withheld from them under circumstances which involve very great loss and damage.

The minister further observes that with a view of guiding the action of Canadian citizens interested in sealing in the northern seas, repeated attempts were made previous to the commencement of the present season to obtain an official expression from the United States Government of the policy they proposed to pursue in their treatment of foreign vessels sealing in Behring Sea, but that these efforts proved altogether unavailing. From Mr. Bayard's communication of February 3, 1887, above referred to, the fair inference, however, was to be drawn that until the question in dispute between the two Governments as to the legality of the previous seizures had been finally disposed of, no further seizures would be made. And there is no doubt that on the strength of this communication, and in the absence of any explicit statement of policy to the contrary, Canadian citizens did, in the beginning of the present season, embark upon their customary sealing expeditions to Behring Sea, under the reasonable impression that they would not be interfered with by the United States authorities so long as they conducted their operations in the open sea; only, however, to find their vessels seized, their property confiscated, and their ventures completely ruined.

It is respectfully submitted that this condition of affairs is in the highest degree detrimental to the interests of Canada, and should not be permitted to continue. For nearly two years Canadian vessels have been exposed to arbitrary seizure and confiscation in the pursuit of a lawful occupation upon the high seas, and Canadian citizens subjected to imprisonment and serious financial loss, while an important and remunerative Canadian industry has been threatened with absolute ruin. This

course of action has been pursued by United States officers in opposition to the contention in the past of their Government in regard to the waters in which these seizures have taken place, in violation of the plainest dictates of international law and in the face of repeated and vigorous protests of both the Canadian and British Governments.

The minister advises that Her Majesty's Government be again asked to give its serious and immediate attention to the repeated remonstrances of the Canadian government against the unwarrantable action of the United States in respect to Canadian vessels in Behring Sea, with a view to obtain a speedy recognition of its just rights and full reparation for the losses sustained by its citizens.

The whole respectfully submitted.

GEO. E. FOSTER,
Minister of Marine and Fisheries.

[Inclosure 2.]

Mr. Hamley to Mr. Foster.

CUSTOM-HOUSE,
Victoria, July 26, 1887.

DEAR SIR: Captain Carrol, master of the American steamer *Olympian*, has been taking parties of excursionists to Sitka and I asked him to see the judge, Mr. Dawson, and find out something we could trust respecting the seized vessels. Dawson told him he had received no orders whatever for the release of the vessels—they have not been sold—and remain as they were, under seizure. Captain Carrol told Dawson of the telegram dated last January, purporting to have been sent by Mr. Garland, Attorney-General at Washington, in the President's name, ordering the vessels to be released. Dawson said he had heard of it before and that it must have been, as he termed it, a "put up thing," as nothing of the kind had reached either himself or the United States marshal at Sitka.

The serious part is that our people, trusting to the story of the order for release, have sent thirteen vessels again this year to the sealing grounds. One has been seized already and if the others fall in the way of the revenue cutters they will probably be seized also. I may perhaps learn something more from the admiral when he returns from Alaska, and if so I will write to you again.

Yours, very truly,

W. HAMLEY.

[Inclosure 3.—Copy of telegram.]

WASHINGTON, D. C., *January 26, 1887.*

Judge LAFAYETTE DAWSON and

M. D. BALL,

United States district attorney, Sitka, Alaska:

I am directed by the President to instruct you to discontinue any further proceedings in the matter of the seizure of the British vessels *Carolina*, *Onward*, and *Thornton*, and discharge all vessels now held under such seizure and release all persons that may be under arrest in connection therewith.

A. H. GARLAND,
Attorney-General.

[Inclosure 4.—Copy of order.]

BARTON ATKINS,

United States marshal for the district of Alaska:

You are hereby directed to release the vessels *Carolina*, *Onward*, *Thornton*, and *San Diego*, which were seized in Behring Sea for violation of section 1956, United States Statutes, together with their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels, this 19th day of February, 1887.

LAFAYETTE DAWSON,
District Judge, District of Alaska.

[Inclosure 5.]

Mr. Hamley to Mr. Foster.

CUSTOM-HOUSE,
Victoria, September 1, 1887.

SIR: On the 7th of August the master of the United States revenue cutter *Rush*, seized in Behring Sea, 60 miles from any land, the Canadian schooner *Alfred Adams*. Her register, clearance, guns, and ammunition, and the seal-skins she had taken, 1,386, were all taken from her and the vessel herself ordered to Sitka. No one from the revenue-cutter was put on board by Captain Shepard, and the master of the *Alfred Adams*, instead of going as he was ordered to Sitka, returned to Victoria, arriving here August 31. I forwarded the master's deposition before a notary public and what Captain Shepard is pleased to term a certificate of the schooners' seizure by himself. Mr. Drake, a solicitor, is at Sitka waiting for the cases to be heard in court. The trial was delayed for the arrival of the *Rush*, and she was expected about the beginning of this month. Mr. Drake will no doubt report to the minister of justice.

I have, etc.,

W. HAMLEY.

I also inclose a sealed letter, addressed by Captain Shepard to the district attorney and United States marshal at Sitka, which the master of the *Alfred Adams* brought down with him, and which you can deal with in any way you think fit.

W. HAMLEY.

[Inclosure 6.]

CERTIFICATE OF SEIZURE OF THE ALFRED ADAMS.

U. S. REVENUE STEAMER RUSH,
Behring Sea, August 6, 1887.

To whom it may concern:

This will certify that I have this day seized the British schooner *Alfred Adams*, of Victoria, B. C., Capt. W. H. Dyer, master, for violation of law, and have taken charge of his ship's papers, viz, register, shipping articles, clearance, bill of health, and log-book; also her arms and seal-skins.

Very respectfully,

L. G. SHEPARD,
Captain United States Revenue Marine.

[Inclosure 7.]

In the matter of the seizure of the sealing schooner "*Alfred Adams*," by the United States revenue-cutter *Richard Rush*.

I, William Henry Dyer, of Victoria, B. C., master mariner, do solemnly and sincerely declare that—

(1) I am the master of the schooner *Alfred Adams*, of the port of Victoria, British Columbia, engaged in the business of catching seals. On the 6th of August, 1887, while on board the said schooner and in command of the same, being in latitude 54° 48' north, and longitude 167° 49' west, the United States revenue-cutter *Richard Rush* steamed alongside, lowered a boat commanded by the first lieutenant and boat's crew. The said lieutenant came on board the said *Alfred Adams* and ordered me to take the ship's register, log-book, articles, and all others of the ship's papers on board the *Richard Rush*. In obedience to his command, I took all said papers and accompanied the said lieutenant on board the *Rush*. When I arrived on board the *Rush* the captain of the *Rush* asked me what was my business in the Behring Sea. I replied, taking seals. He inquired how many skins I had; I replied, 1,386. He then said he would seize the ship, take the skins, arms, ammunition and spears. I stated I did not think the ship was liable to seizure, as we had never taken a seal within 60 miles of Oonahaska nor nearer St. Paul's than 60 miles south of it, and that we had never been notified that the waters were prohibited unless landing and taking them from the island of St. Paul. He stated he must obey the orders of his Government, and that our Government and his must settle the matter, and ordered me to proceed on board the said schooner and deliver up my arms, ammunition, and skins, and spears. He sent two boats belonging to the *Rush*, in charge of the first and second lieuten-

ants of the *Rush*, respectively, and manned with sailors from the *Rush*, who came on board the said schooner. (I returned in company with the first lieutenant.)

They took from the said schooner 1,386 skins, 4 kegs powder (3 triple F and 1 blasting powder), 500 shells, 3 cases caps and primers, 9 breech-loading double-barreled shot-guns, 1 Winchester rifle, all in good order, and 12 Indian spears, and he then gave me a sealed letter addressed to the United States marshal and United States district attorney at Sitka. He also gave me an acknowledgment of the goods taken, and also gave me a certificate that the said schooner was under seizure, and after being alongside for about three and a half hours I received orders in writing to proceed to Sitka and report to the United States district attorney and marshal. We then parted company. My crew consisted of myself, mate, two seamen, one Chinese cook, and twenty-one Indians. Previous to the said seizure we had spoken the schooner *Kate*, of Victoria, and had been informed by the mate of that vessel that the crews (and particularly the Indians) taken to Sitka on schooners previously seized had been very badly treated. The Indians became very mutinous on learning that we were to proceed to Sitka and report to the United States authorities and declared they would not go to Sitka, and to avoid trouble I came to Victoria instead of going to Sitka. I arrived in Victoria on the 31st of August, 1887, at about 7 p. m.

And I make this solemn declaration conscientiously, believing the same to be true, and by virtue of the oaths ordinance, 1869.

W. H. DYER.

Declared before me this 1st day of September, A. D. 1887, at Victoria, British Columbia.

H. DALLAS HELMCKEN,
A Notary Public in and for the Province of British Columbia.

[Inclosure 8.]

Messrs. Drake, Jackson, and Helmcken to Mr. Thompson.

VICTORIA, B. C., September 3, 1887.

SIR: We have the honor to inform you that we are in receipt of letter from our Mr. Drake, written from Sitka, under date August 25, in which he states that a telegram was received at Sitka, relative to the schooners seized last year, from the United States Attorney-General Garland directing their release and discharge of the men. The judge gave an order accordingly, which was afterwards rescinded on the assumption that the telegram was a forgery. No official letter of any sort, either confirming the telegram or respecting the affair, has been received at Sitka. The schooners now seized and at Sitka are the *Anna Beck*, *W. P. Sayward*, *Dolphin*, and *Grace*. The *Alfred Adams* was also seized. The trial of the present men, Mr. Drake states, would not take place until after the arrival of the revenue-cutter *Rush*; also that, judging from the past and the views held by the court, the result would most probably be the same, and urges that immediate steps should be taken to prevent the imprisonment of the masters, and that he would obtain declarations from the masters duly certified, and enter a protest at the trial. The *Rush* was not expected at Sitka until yesterday.

Regarding the seizure of the *Alfred Adams*, we have to state that that schooner has arrived here safely. The declarations of her captain (Captain Dyer) and his men have been duly taken, which her owners, Messrs. Guttman and Frank, of this city, yesterday handed to Hon. Mr. Stanley, collector of customs, together with a sealed letter, which the commander of the *Rush* handed to Captain Dyer to be delivered to the district attorney at Sitka. These papers, no doubt, Mr. Stanley has already forwarded to the proper department.

We have since forwarded a copy of this information to the Right Honorable Sir John A. Macdonald, K. C. B., etc.

We have, etc.,

DRAKE, JACKSON & HELMCKEN.

[Inclosure 9.]^a

Mr. Burbidge to Mr. Hardie.

DEPARTMENT OF JUSTICE, CANADA,
Ottawa, September 12, 1887.

SIR: I have the honor to inclose for your information a copy of a letter which has been received by the minister of justice from Messrs. Drake, Jackson & Helmcken, in which they report with reference to the sealing vessels which have been seized in the Behring Sea by the United States authorities.

I am to state that the minister of justice has taken no action with respect to this communication, but that he is of the opinion that the minister of marine and fisheries should at his earliest convenience take steps to communicate the substance thereof to the colonial office and to the British minister at Washington.

I have, etc.,

GEORGE W. BURBIDGE, D. M. J.

No. 32.

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, March 9, 1888. (Received March 9.)

SIR: In examining the question submitted to me informally by you on yesterday, as by the memorandum herewith returned, I beg leave to say that the bond indicated, I am of opinion, can be given in pursuance of rule 10 of the practice in admiralty, as prescribed by the Supreme Court in the collection of its rules published 1887, page 65. The doubt that I had in my mind when the question was first suggested arose not upon the mere matter of the general rules of practice in admiralty cases, but whether the bond could be give in cases for direct forfeiture, as these are. On examining the case of the *United States v. Ames* (99 U. S., p. 35, *et seq.*), Judge Clifford, in delivering the opinion of the court, on pages 39 and 40, states that the better opinion is that *even in seizures for forfeiture* the bond may be executed in the same manner, etc., and I think myself that that is the proper view of the question.

The bond to be given must be after appraisalment under order of the court where the property is held, and for the amount of that appraisalment, conditioned for the return of the property after the final determination of the cases by the courts, and no other kind of bond would be sufficient.

Very truly yours,

A. H. GARLAND,
Attorney-General.

[Inclosure.]

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, March 7, 1888.

Canadian sealers seem required to carry appeal to United States court, or by failure to do that will forfeit bonds. Can they be allowed to bond vessels and skins, without obligation to appeal and pending definite settlement between United States and Great Britain?

No. 33.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, March 26, 1888. (Received March 29.)

SIR: With reference to the proposal that concerted action be taken by Great Britain, the United States, and other interested powers, in order to preserve from extermination the fur seals which at certain seasons are

found in Behring Sea, I am requested by the Marquis of Salisbury to inform you that the Russian ambassador in London has been communicated with on the subject, and that he has referred to his Government for instructions. But in making this communication to you I am instructed to state that this action on the part of Her Majesty's Government must not be taken as an admission of the rights of jurisdiction in Behring Sea exercised there by the United States authorities during the fishing seasons of 1886-'87 and 1887-'88, nor as affecting the claims which Her Majesty's Government will have to present on account of the wrongful seizures which have taken place of British vessels engaged in the seal-fishing industry.

I have, etc.,

L. S. SACKVILLE WEST.

No. 34.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 30, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 26th instant in which you inform the Department that the action of Her Majesty's Government in respect to the proposal of this Government, for an arrangement to protect the fur seal from extermination in Behring Sea, is not to be taken as an admission of the jurisdiction of the United States over Behring Sea, nor as affecting the claims which Her Majesty's Government will have to present on account of the seizure of certain British vessels in those waters.

I have, etc.,

T. F. BAYARD.

No. 35.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, April 2, 1888. (Received April 3.)

SIR: I have the honor to inform you that the Marquis of Salisbury has received intimation from the Canadian Government to the effect that orders have been issued by the United States Government for the capture of British ships fishing in Behring Sea, and that he has telegraphed to me to represent earnestly the extreme importance of enabling Her Majesty's Government to contradict this rumor.

I have, etc.,

L. S. SACKVILLE WEST.

No. 36.

Sir L. S. Sackville West to Mr. Bayard.

[Note verbale.]

Her Majesty's Government have just received the particulars of the claims for compensation on account of British sealers seized and warned off by the United States authorities in Behring Sea.

A just assessment of these claims appears to them difficult without investigation and verification, and they therefore wish to ascertain whether the United States Government would be disposed to agree to a mixed commission, to be restricted to inquiring in each case whether compensation is due and the amount of such compensation.

WASHINGTON, *April 18, 1888.*

No. 37.

Mr. Bayard to Sir L. S. Sackville West.

[Note verbale.]

DEPARTMENT OF STATE,
Washington, April 21, 1888.

Responding to the note verbale of Sir Lionel West, dated the 18th instant; it is suggested on behalf of the United States that, as the cases of seizure of British sealing vessels in Behring Sea, therein referred to, are now in court pending an appeal from a judicial decision, it is preferable to await the judgment of the appellate court in the premises.

No. 38.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *April 30, 1888.* (Received May 2.)

SIR: With reference to pending legal proceedings in the cases of British vessels seized by the United States authorities in Behring Sea, I have the honor to inform you that I am instructed by the Marquis of Salisbury to propose to the United States Government that the time limited for the prosecution of the appeals in these cases should, by consent, be extended for such a period as may permit of a settlement of the claims in question by diplomatic negotiation without prejudice to the ultimate legal remedy by appeal, should such negotiation be unsuccessful, and that the vessels and skippers should be at once released on security.

It is understood, indeed, that permission has actually been given to the owners of these vessels to bond them, pending appeal, provided the sureties are citizens of the United States and resident therein, and under these circumstances the proposal for an extension of the time limited for such appeal is submitted, in view of any diplomatic negotiations which may ensue having for object satisfactory adjustment of all matters connected with these cases.

I have, etc.,

L. S. SACKVILLE WEST.

No. 39.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, May 25, 1888. (Received May 26.)

SIR: On the 30th of April I had the honor to address you, as instructed by the Marquis of Salisbury, on the subject of the appeals pending in the cases of British vessels seized by the United States in Behring's Sea, and Her Majesty's Government have now requested me to ask you for a reply to my above-mentioned communication.

I have, etc.,

L. S. SACKVILLE WEST.

No. 40.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, May 28, 1888.

MY DEAR SIR LIONEL: In regard to the inquiry contained in your note of the 25th instant, relating to the British vessels seized in Behring's Sea, I should be glad to have an interview with you this afternoon at 3 o'clock, should that hour be convenient for you to come to the Department.

I am, etc.,

T. F. BAYARD.

No. 41.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, May 28, 1888.

SIR: I have the honor to acknowledge your notes of the 30th ultimo and 25th instant, both relating to the appeals taken in the judicial court in Alaska from decrees in cases of British vessels seized by the United States revenue officials in Behring Sea under charges of having violated the laws of the United States regulating the killing of fur-seals. I must excuse myself for the delay in making reply to your note of April 30, which was caused by my desire to obtain from you a verbal explanation of what appeared to me an inadvertent expression contained therein, from which it appeared that the "skippers" were held under arrest as well as the sealing vessels.

In my personal interview with you to-day it became mutually understood that there has been and is no such personal detention in any of the cases, but the proceedings have all been *in rem* against the vessels so employed and their outfits.

The suggestion of the Marquis of Salisbury that the time limited for the prosecution of the appeals (entered already or proposed to be entered) in the cases referred to should be extended in order to give an opportunity for a diplomatic settlement will meet with favorable con-

sideration within the limits of the statutory provision in relation to the docketing and prosecution of appeals.

While it is not within the power of the Executive branch to alter or extend the statutory limitation in respect of the time of entering such appeals, yet so far as agreement of both parties may prevail in procuring postponements of the arguments and pleadings after the appeal has been duly taken, I apprehend that there will be every disposition on the part of the prosecution to give time for diplomatic arrangement.

Accept, sir, etc.,

T. F. BAYARD.

No. 42.

Sir L. S. Sackville West to Mr. Bayard.

[Memorandum.]

WASHINGTON, May 28, 1888. (Received May 29.)

In the cases of the condemned Behring Sea sealing vessels and their cargoes, it appears that the proctors for some (and possibly all) of the British sealers failed to take an appeal from the decrees of condemnation entered by the district court at Sitka; consequently they have lost the benefit of the Attorney-General's order permitting release of the property on bond pending decision of the appeals, and as the decrees have become final, have no other than a diplomatic remedy left.

No. 43.

Mr. Bayard to Sir L. S. Sackville West.

Personal.]

DEPARTMENT OF STATE,
Washington, May 29, 1888.

DEAR SIR LIONEL: I have just sent you a reply to your notes (official) of April 30 and May 25 relating to appeals in the cases of seizure in Behring Sea.

I have this moment received your note of to-day inclosing a memorandum to the effect that by reason of the failure of the proctors of the vessels so seized, no appeals from the decrees of condemnation have been entered, and the time fixed by law for doing so having expired, none other than relief through diplomatic channels remains.

It is much to be regretted that the order of the Attorney-General respecting acceptance of security and release of these vessels had not been availed of by these parties. I will, however, write at once to my colleague, the Attorney-General, and see what remains to be done in his Department.

Very truly, yours,

T. F. BAYARD.

No. 44.

*Mr. Bayard to Mr. Garland.*DEPARTMENT OF STATE,
Washington, May 29, 1888.

SIR: I have just received a note from the British minister at this Capital, inclosing a memorandum in relation to the case of seizure of British vessels by United States revenue officials in Behring Sea. I inclose a copy of this memorandum and will ask you to inform me whether there still remains any mode by which the decrees of condemnation can be reviewed.

I have, etc.,

T. F. BAYARD.

No. 45.*Mr. Garland to Mr. Bayard.*DEPARTMENT OF JUSTICE,
Washington, May 31, 1888. (Received June 1.)

SIR: I have the honor to acknowledge the receipt of your letter of the 29th instant, inclosing a copy of a memorandum from the British minister, in relation to the cases of seizure of British vessels in Behring Sea, and to say that I know of no mode remaining by which the decrees of condemnation can be reviewed.

Very respectfully,

A. H. GARLAND.

No. 46.*Sir L. S. Sackville West to Mr. Bayard.*

BEVERLY, MASS., August 6, 1888. (Received August 8.)

SIR: I have the honor to inform you that Her Majesty's Government have received intelligence to the effect that four British ships seized last year in Behring Sea are being taken to Port Townsend for sale by the United States authorities. It would seem that this action has been taken in consequence of the judge of the district court of Alaska having refused to bond the owners, upon the ground that their application was too late.

The Marquis of Salisbury has now requested me to ask the United States Government to postpone the sale of the said vessels pending the settlement of the question of the legality of the seizure.

I have, etc.,

L. S. SACKVILLE WEST.

No. 47.

*Mr. Bayard to Mr. Jenks.*DEPARTMENT OF STATE,
Washington, August 8, 1888.

SIR: I hand you inclosed a copy of a note this day received by me from Sir Lionel S. S. West, the British minister at this capital, in which on behalf of his Government he asks for a postponement of the sale of four British vessels seized last year in Behring Sea and condemned for violation of the United States Statutes regulating the killing of fur seal.

Although the right of statutory appeal may have been lost by lapse of time, yet I suppose that the proceedings in execution of the decree are within the discretionary control of your Department, and unless the delay asked for should cause irreparable loss, I hope you may find the power and disposition to grant it.

Will you acquaint me with your decision, and in case you have ordered a stay in the proceedings, to so inform me, that I can communicate it to the British minister?

Very respectfully, yours,

T. F. BAYARD.

No. 48.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, August 8, 1888.

SIR: I have the honor to acknowledge your note, dated at Beverly, Mass., on the 6th instant, by which I am informed that in the case of four British sealing vessels condemned last year for killing fur seal in Alaskan waters in violation of the laws of the United States, you are instructed to ask for a postponement of the time for the sale of the vessels referred to, in execution of the decree.

I have already transmitted a copy of your note to my colleague, the Attorney-General, and will communicate his reply as soon as it shall have been received.

Accept, etc.,

T. F. BAYARD.

No. 49.

*Mr. Jenks to Mr. Bayard.*DEPARTMENT OF JUSTICE,
Washington, August 10, 1888. (Received August 13.)

SIR: I have the honor to acknowledge receipt of your letter of August 8, with its inclosure from the British minister, and to inform you that in pursuance of the request therein conveyed I have directed by telegram and letter the postponement of the sale of the four British vessels seized in Behring Sea, and instructed the United States marshal in charge to receive bonds in lieu of the vessels.

Very respectfully,

G. A. JENKS,
Acting Attorney-General.

No. 50.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, August 13, 1888.

SIR: With further reference to your note of the 6th instant, conveying the request of the Marquis of Salisbury for a postponement of the sale of four British vessels seized in Behring Sea last year, I have now the honor to state that I have just received a letter from the Acting Attorney-General, informing me that, in pursuance of the request so made, he has directed by telegram and letter the postponement of the sale of the vessels in question and has also instructed the United States marshal in charge to receive bonds in lieu of the vessels.

Accept, etc.,

T. F. BAYARD.

No. 51.

Sir L. S. Sackville West to Mr. Bayard.

BEVERLY, MASS., August 16, 1888. (Received August 21.)

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, informing me that in pursuance of the request of the Marquis of Salisbury, made through me, the Acting Attorney-General has directed by telegram and letter the postponement of the sale of the vessels in question, and has also instructed the United States marshal in charge to receive bonds in lieu of the vessels.

I have, etc.,

L. S. SACKVILLE WEST.

No. 52.

*Mr. Jenks to Mr. Bayard.*DEPARTMENT OF JUSTICE,
Washington, September 3, 1888. (Received September 4.)

SIR: I have the honor to send you copies of letters of the 23d and 25th ultimo from Mr. Atkins, United States marshal for the district of Alaska, and to ask for an expression of your views upon the propriety of an immediate sale of the vessels mentioned by the marshal on consideration of the statements he makes in relation to them.

Very respectfully,

G. A. JENKS,
Acting Attorney-General.

[Inclosure No. 1.]

*Mr. Atkins to Mr. Garland.*DISTRICT OF WASHINGTON TERRITORY,
OFFICE OF THE UNITED STATES MARSHAL,
Seattle, Wash., August 23, 1888.

SIR: In reference to the four condemned British vessels now in my custody, I have the honor to report:

That the owner of the schooners *Anna Beck*, *Grace*, and *Dolphin* claims that the ap-

praisement made at Sitka one year ago was at the time excessive, and that their value, on account of the inclement climate of Alaska, has in the meantime been constantly depreciating, and therefore declines to bond them at such appraisement, but requests a new appraisement, which, if not granted, they desire the sale to proceed. The owner says, however, that he will furnish satisfactory bonds for the schooner *Anna Beck* at her present appraised value if it can be effected, subject to a final settlement of the matter, and without the expense of an appeal to the Supreme Court.

Having myself a practical knowledge of the value of such property, I fully coincide with the claimant that the valuation put on the schooners *Grace* and *Dolphin* at Sitka was excessive.

The schooner *Ada* is owned and registered at Shanghai, China, and her owner, whoever he may be, has not as yet made claim or appearance.

In the meantime the vessels are remote from my district, thus greatly increasing the responsibility of their safe custody, and the expense thereof constantly increasing.

I desire to be instructed, in case vessels are not soon sold or bonded, what further action to take in reference to returning to my district and leaving the vessels in charge of a special deputy.

Very respectfully,

BARTON ATKINS,
United States Marshal.

[Inclosure No. 2.]

Mr. Atkins to Mr. Garland.

DISTRICT OF ALASKA,
OFFICE OF UNITED STATES MARSHAL,
Portland, Oregon, August 25, 1888.

SIR: In view of the present situation relative to the British vessels in my custody, now moored at Port Townsend, W. T., I beg leave to state as follows:

That all of said vessels, owing to the length of time they have been out of commission, are in a dilapidated condition, and that their depreciation in value is constant and rapid.

That they are small in size, the combined tonnage of the four being only 249 tons.

That the owner of the *Anna Beck*, *Grace*, and *Dolphin*, Capt. J. D. Warren, of Victoria, B. C., has notified me that he prefers that the *Grace* and *Dolphin* should be sold without further delay, and the *Anna Beck* also, unless he can bond that vessel without instituting an appeal to the Supreme Court or making a journey to Sitka for that purpose.

That if longer held in custody they will have to be removed from Port Townsend to some place secure from the fall and winter winds for permanent moorings. All of which will be attended by much greater expense comparatively than has heretofore been required for their safe custody.

I do not hesitate to recommend, in interest of all concerned, that the vessels, if not bonded, should be sold without delay.

It is my purpose soon to repair to Port Townsend, there to await Department orders.

Very respectfully, your obedient servant,

BARTON ATKINS,
United States Marshal.

No. 53.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, September 10, 1888.

SIR: Referring to previous correspondence in relation to the sale of the four British vessels condemned for taking seals illicitly in Behring Sea in 1887, I have the honor to inform you that I have received a communication from the Acting Attorney-General of the 3d instant, in which an expression of my views is requested upon the propriety of an immediate sale of the vessels in view of certain statements made in regard to them.

As an order for the postponement of the sale and the bonding of the vessels was issued by the Department of Justice, in compliance with the request of Lord Salisbury communicated to this Department, I inclose herewith a copy of the letter of the Acting Attorney-General, together with its inclosures, and will be glad to learn whether, in the light of the facts now disclosed, it is still the desire of his lordship that the sale should not be proceeded with.

I have, etc.,

T. F. BAYARD.

No. 54.

Mr. Jenks to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, September 26, 1888. (Received September 27.)

SIR: I have the honor to transmit herewith a copy of a letter of the 7th instant, from the United States attorney for Alaska, relative to the bonding of the condemned sealing vessels *Dolphin*, *Grace*, *Anna Beck*, and *Ada*, also a copy of a letter of the 10th instant from T. J. Hamilton, United States marshal for Washington Territory, whom Marshal Atkins, of Alaska, has appointed as his deputy in the case. Mr. Hamilton reports that the four vessels are safely moored at Port Townsend, and will be held subject to further instructions touching their sale. Suggesting that as the season advances the probability of realizing a fair price for the vessels will be correspondingly diminished, and that the expenses attending their retention by the marshal are constantly accruing, I respectfully refer the correspondence for your consideration and such recommendations as you deem proper as to the propriety of their speedy disposal by sale.

Very respectfully,

G. A. JENKS,
Acting Attorney-General.

[Inclosure No. 1.]

Mr. Hamilton to Mr. Garland.

DISTRICT OF WASHINGTON TERRITORY,
OFFICE OF UNITED STATES MARSHAL,
Seattle, Wash., September 10, 1888.

SIR: I have the honor to state that on the 7th instant Barton Atkins, esq., United States marshal for Alaska, transferred to me the custody of the condemned schooners *Grace*, *Dolphin*, *Anna Beck*, and *Ada*, and appointed me his deputy in the usual form, and delivered to me the original writs of *venditioni exponas* issued from the United States district court of Alaska for the sale of said schooners. The vessels are safely moored at Port Townsend, and will be held subject to instructions from the Department touching their sale, or other disposition of the same.

Very respectfully,

T. J. HAMILTON,
United States Marshal.

[Inclosure No. 2.]

*Mr. Grant to Mr. Garland.*DISTRICT OF ALASKA, DISTRICT ATTORNEY'S OFFICE,
Sitka, September 7, 1888.

SIR: Yours of August 10, received and noted, directing me to take such steps as will lead to the bonding of the four English vessels, *Dolphin, Grace, Anna Beck, and Ada*. I don't know that you understand the situation of these cases. No defense was made in them, except the demurrer of Mr. Drake's, which was never filed at a pleading. No claim was ever made on the records. In fact no action ever taken that justified them in appearing at all. Two terms of court have passed since, and no action taken. Of course if they come in and ask to appear and make defense and to bond, etc., I will act according to your suggestion; but it will be a queer-looking record if the court allows them to come in now. The property was all appraised. I am informed that they bonded one vessel on the sound, but refused to bond the others because appraised too high.

In the meantime the order for sale will be recalled when the marshal returns.

Mr. Drake filed a stipulation with Mr. Delaney, acting for the United States, that if a decree of forfeiture was entered the vessel should be sold below. That is the only paper filed. Drake wouldn't let his name appear as attorney. If the parties appear here, however, I will try and help them make a record as desired.

Respectfully,

WHIT. M. GRANT,
District Attorney.

No. 55.

*Mr. Bayard to Sir L. S. Sackville West.*DEPARTMENT OF STATE,
Washington, September 27, 1888.

SIR: Recurring to the subject of the four British vessels condemned for taking seals illicitly in Behring Sea in 1887, I have the honor to inform you that I have received from the Acting Attorney-General a letter dated the 26th instant, inclosing copies of letters from the United States attorney for Alaska and the United States marshal for Washington Territory of the 7th and 10th instants, respectively, in relation to the same matter.

The four vessels, the schooners *Grace, Dolphin, Anna Beck, and Ada*, have been transferred by the United States marshal for Alaska to the custody of the United States marshal for Washington Territory, and are now at Port Townsend, subject to instructions from the Department of Justice touching their sale or other disposition.

The Department is informed that none of the vessels have been bonded, and that the owners of three of them have refused to take that step, on the ground that their appraisement was too high. As the season advances the probability of realizing a fair price for the vessels will diminish, and the expenses incident to their retention by the marshal are necessarily accruing.

These considerations make it proper that a decision in regard to the disposition of the vessels should speedily be reached, and I have the honor to request that, if it is desired to postpone the sale still further, the Department may be assured at an early day that an arrangement will be made whereby the vessels may be saved from becoming a loss.

I have, etc.,

T. F. BAYARD.

No. 56.

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,

Washington, October 11, 1888. (Received October 12.)

SIR: I herewith inclose copies of communications received from W. M. Grant, United States attorney for Alaska. From the facts submitted by him, in connection with those contained in my letter of the 26th of September, I submit whether it will not be expedient and for the best interest both of the United States and adverse claimants, if there be such, that the vessels referred to be speedily sold. An answer is desired at your earliest convenience.

Very respectfully,

A. H. GARLAND.

[Inclosure No. 1.]

Mr. Grant to Mr. Garland.

DISTRICT OF ALASKA, DISTRICT ATTORNEY'S OFFICE,

Sitka, September 20, 1888. (Received October 12.)

SIR: Marshal returned from Port Townsend says no vessel was bonded, and now the parties have concluded not to bond and want the sale to go on, but I shall instruct the marshal to await instructions from you. How long shall I wait for the parties to act? No owners have appeared on the record; the record does not show who they are. No claims are filed or bond for costs given. The cases were submitted on the agreement signed by Mr. Drake for "the masters," and on his demurrer as representative of Canadian Government.

Very respectfully,

WHIT. M. GRANT,
District Attorney.

[Inclosure No. 2.]

Agreement between the United States and the masters of the schooners seized in 1887.

IN THE DISTRICT COURT OF THE TERRITORY OF ALASKA.

[The United States vs. the British schooners *Dolphin*, *Anna Beck*, *Grace*, and *Ada*.]

It is hereby stipulated and agreed between the plaintiffs and the masters of the defendant schooners that the demurrer filed in the matter of the information against J. D. Warren, and the agreement therein, shall apply to the libels filed or to be filed against the above vessels. It is further stipulated and admitted as a fact that the masters of the above-named vessels did kill seals during the month of July, 1887, in that portion of Behring Sea claimed by the United States under the treaty of 1867 between Russia and the United States and beyond the limit of 10 miles from the nearest land.

It is further stipulated that in case the vessels or any of them shall be condemned by any order of the court that the same shall not be sold until the expiration of three months from the publication of any order ordering such sales, and that such sales shall take place at Port Townsend or some other point on Puget Sound.

It is further stipulated that the defendants may give security for appeal to the Supreme Court of the United States or such other court as may have jurisdiction by bonds of any qualified bondsman in Washington Territory, Oregon, or California.

Upon the question of facts thus agreed upon the parties submit the cases to the court upon the law question raised by the demurrer.

On behalf of the masters of the above schooners.

M. W. DRAKE.
A. K. DELANEY,
Attorney for the United States.

SEPTEMBER 10, 1887.

No. 57.

*Lord Sackville to Mr. Bayard.*BEVERLY, *October 12, 1888.* (Received October 16.)

SIR: With reference to correspondence which has passed relative to the bonding of the British ships *Grace*, *Dolphin*, and *Anna Beck*, which were seized some time since in Behring Sea, and in connection with the directions given by the United States Acting Attorney-General to postpone the sale of the schooners and to receive bonds in lieu of the vessels, I have the honor to inclose extract from an approved minute of the privy council of Canada, and to inform you that the Marquis of Salisbury has instructed me to ask that the United States authorities may be moved to authorize the re-appraisal of the schooners *Grace* and *Dolphin*, and that instructions may be given in the case of the *Anna Beck* that the proposed bonds of the owner may be accepted subject to a final settlement of the question.

I have, etc..

SACKVILLE.

[Inclosure.]

Extract from a Minute of the Privy Council of Canada, dated September 30, 1888.

The minister of marine and fisheries observes that copies of the correspondence referred to confirm the intimation conveyed by the above telegram that an order for the postponement of the sale and permitting the bonding of these vessels at the value already appraised, had been made by the Department of Justice at Washington, in compliance with the request of Lord Salisbury.

Subsequent to the receipt of this order, the United States marshal at Seattle, Wash., informed the Attorney-General for the United States that the owners of the schooners *Anna Beck*, *Grace*, and *Dolphin* claimed that not only was the appraisal made at Sitka a year previously, excessive but that the value of the vessels on account of the inclement climate at Alaska had in the mean time been constantly depreciating, and they therefore declined to bond them, with the exception of the *Anna Beck*, at such appraisal, but requested a new appraisal, and stated that if a new appraisal was not allowed the owner desired the sale should proceed.

It further appears from the same communication, that in the case of one of the vessels, the *Anna Beck*, the owner is willing to furnish satisfactory bonds, at the value already appraised, if this can be done, subject to a final settlement of the matter, and without necessitating an appeal to the Supreme Court of the United States.

The minister further observes that, touching the question of excessive appraisalment, the United States marshal states as follows: "Having myself a practical knowledge of the value of such property, I fully coincide with the claimant, that the valuation put on the schooners *Grace* and *Dolphin* was excessive."

No. 58.

Mr. Rives to Mr. Garland.

DEPARTMENT OF STATE,
Washington, *October 17, 1888.*

SIR: Referring to your letter of the 11th instant, in relation to the postponement of the sale of the British schooners condemned for taking seals in Behring Sea in 1887, I have the honor to inclose herewith a copy of a note received yesterday from the British minister, bearing

date the 12th instant, on the same subject; and shall be glad to receive an expression of your views on the arrangement proposed by the British Government in regard to the disposition of the vessels.

I have, etc.,

G. L. RIVES.

No. 59.

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, October 20, 1888. (Received October 22.)

SIR: By your communication of the 17th of October, 1888, you request "an expression of my views on the arrangement proposed by the British Government in regard to the disposal of the vessels" *Grace*, *Dolphin*, and *Anna Beck*. The arrangement referred to is that the United States authorize a re-appraisal of the schooners *Grace* and *Dolphin*, and that instructions be given in the case of the *Anna Beck* that bonds of the owner may be accepted, subject to the final settlement of the question. The libels against the vessels were submitted on a stipulation, dated the 10th day of September, 1887, by W. M. Drake, on behalf of the masters. They were, on or about the 3d day of October, 1887, after hearing, condemned, and, in pursuance of the terms of the stipulation, were ordered to be sold at Port Townsend. The time for appeal to the Supreme Court of the United States has long since expired. On the 25th day of August, 1888, the United States marshal for Alaska reported:

That the owner of the *Anna Beck*, *Grace*, and *Dolphin*, Capt. J. W. Warren, of Victoria, B. C., notified me [him] that he prefers that the *Grace* and *Dolphin* should be sold without further delay, and the *Anna Beck* also, unless he can bond that vessel without instituting an appeal to the Supreme Court or making the journey to Sitka for that purpose.

The aggregate tonnage of the three vessels, with the *Ada* (for which no owner has been heard from), is but 279 tons. The vessels, if not sold, will soon be substantially valueless. If attempt be made to keep them over the winter a total loss may result. I therefore adhere to the views expressed in my former communication, that the interest of all concerned will be best subserved by an early sale, and earnestly hope I may receive a prompt communication from you concurring therein.

Very respectfully,

A. H. GARLAND.

No. 60.

Mr. Bayard to Mr. Garland.

DEPARTMENT OF STATE,
Washington, October 27, 1888.

SIR: Referring to previous correspondence concerning the disposition of the British vessels *Grace*, *Dolphin*, and *Anna Beck*, condemned for taking seals illicitly in Behring Sea, I have the honor to acknowledge the receipt of your letter of the 20th instant on the subject, and

to say in reply that, under the circumstances, the wiser course for all concerned is to let the sale take place at once, as delay is impracticable and can only be productive of loss.

I have, etc.,

T. F. BAYARD.

No. 61.

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, November 14, 1888. (Received November 16.)

SIR: I have the honor to acknowledge receipt of your communication of the 27th ultimo, concerning the disposition of the British vessels now lying at Port Townsend, Wash., and to inform you that T. J. Hamilton, deputy United States marshal in charge, has this day been directed to take the necessary steps to effect the sale of the four vessels as speedily as possible.

Very respectfully,

A. H. GARLAND.

No. 62.

Mr. Bayard to Mr. Garland.

DEPARTMENT OF STATE,
Washington, November 17, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, stating that Deputy United States Marshal T. J. Hamilton, in charge of the four British vessels now lying at Port Townsend, Wash., has been directed to take steps for their speedy sale, and to say in reply that the Department will be glad to be informed of what may be done by that officer under the order in question.

I have, etc.,

T. F. BAYARD.

No. 63.

Mr. Herbert to Mr. Bayard.

WASHINGTON, November 23, 1888. (Received November 23.)

SIR: With reference to your note of September 27 last, respecting the sale of four British vessels condemned for taking seals illicitly in Behring Sea, in 1887, I have the honor to state that I have this day instructions from the Marquis of Salisbury to inform you that the owners of the *Ada* do not object to the original appraisement.

I have, etc.

ARTHUR HERBERT,
For M. H. HERBERT.

No. 64.

*Mr. Bayard to Mr. Garland.*DEPARTMENT OF STATE,
Washington, November 27, 1888.

SIR: Referring to the letter of your Department of September 26 last, respecting the sale of four British vessels condemned for taking seals illicitly in Behring Sea, in 1887, I have the honor to inclose a copy of a note of the British chargé *ad interim*, by which it appears that the owners of the *Ada* do not object to the original appraisement.

I have, etc.,

T. F. BAYARD.

No. 65.

*Mr. Bayard to Mr. Herbert.*DEPARTMENT OF STATE,
Washington, November 28, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, stating that the owners of the *Ada*, one of the four British vessels condemned for taking seals illicitly in Behring Sea, do not object to the original appraisement, and to say that I have made known the contents thereof to the Attorney-General.

I have, etc.,

T. F. BAYARD.

No. 66.

Mr. Herbert to Mr. Bayard.

WASHINGTON, December 5, 1888. (Received December 5.)

SIR: With reference to the case of the seizure of four British sealing ships in Behring Sea, I have the honor to inclose, for convenience of reference, copy of Lord Sackville's dispatch of October 12* (without its inclosure) to your Department, as I have been instructed by the Marquis of Salisbury to call your attention to the fact that up to the present no answer has been received, and to beg the favor of an early reply.

I have, etc.,

ARTHUR HERBERT,
For M. H. HERBERT.

No. 67.

*Mr. Bayard to Mr. Herbert.*DEPARTMENT OF STATE,
Washington, December 10, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, in which you call attention to the note of Lord Sackville of the 12th of October last, in relation to the re-appraisement of three of

* See *supra*, No. 57.

the four British schooners seized and condemned for illicitly taking seals in Behring Sea in 1887.

The note referred to was at once communicated to the Department of Justice, with a request for an opinion upon the question of re-appraisal. Some time previously, upon the request of the Marquis of Salisbury, the sale of the schooners had been stayed by this Government, in order that full opportunity might be given to their owners to make some arrangement whereby they might become repossessed of the vessels. On the 11th of October, the day preceding the date of the note of Lord Sackville, above referred to, the Attorney-General wrote to this Department a letter, copy of which is inclosed, in which he intimated an opinion that the interests of both the United States and of the claimants would be best subserved by a speedy sale of the vessels. By this letter it appears that, although the schooners had long since been condemned, no claims had been filed by their owners, and no bonds given for costs. Nevertheless, the Department again consulted the Department of Justice in regard to the proposition contained in the note under date of the 12th of October. Under date of the 20th of October last a reply from the Attorney-General was received, copy of which is inclosed. To this I made answer on the 27th of October, expressing my concurrence in the view of the Attorney-General that under the circumstances the wiser course for all concerned was to let the sale of the vessels take place at once, as delay seemed impracticable, and could only be productive of loss.

On the 14th of last month the Attorney-General informed me that he had that day directed the United States marshal in charge of the vessels at Port Townsend, Wash., to take the necessary steps to effect a sale of the four vessels as speedily as possible. Since that time no correspondence on the subject has taken place with the Department of Justice, except a request from this Department on the 17th ultimo that it might be informed of the proceedings of the marshal under the order above stated. When a response to this request shall have been received you will be duly advised of its contents.

I have, etc.,

T. F. BAYARD.

No. 68.

No. 388.]

Mr. Stevens to Mr. Rives.

CONSULATE OF THE UNITED STATES OF AMERICA,
Victoria, British Columbia, December 31, 1888.

(Received January 12, 1889.)

SIR: Information casually received this morning leads me to believe that this dispatch, with inclosures, may prove of interest.

I am the more induced to make the report inasmuch as my No. 374, of October 8 last, upon the same subject, the seizure off Copper Island on July 1 last of the British sealing schooner *Araunah* gives but a brief account thereof, obtained from the owners of the *Araunah*, and from the public press, before the arrival here of the master of the vessel, and was consequently ambiguous in some minor particulars.

I am now enabled to give a more circumstantial account of the seizure, as Captain Seward, late master of the *Araunah*, has recently given me full particulars of the seizure of the vessel and his subsequent pro-

ceedings, and has left with me for perusal all papers in his possession concerning the case, being letters—one from the Marquis of Salisbury—copies of telegrams, diagram showing the position of the *Araunah* with reference to Copper Island, at the moment of seizure, copy of treaty of March 30, 1867, between the United States and Russia, and copy of the captain's statement to Her Britannic Majesty's ambassador at St. Petersburg, signed by the captain and part of crew, and sworn to before Her British Majesty's consul at Nagasaki; of which I send only copies of those most pertinent, especially the last-named paper.

Captain Seward informs me that the agents of the British Government provided fully for the expenses—save those paid by the Russian Government at Petropolovski—and transportation of himself and the crew of the seized vessel to this point, except a very small personal outlay.

I am, etc.,

ROBERT J. STEVENS.

[Inclosure No. 1 in No. 388.—Extract.]

Sir R. B. D. Morier to Messrs. Hall and Goepel.

ST. PETERSBURG, November 30, 1888.

GENTLEMEN: Having received the final communication which you had announced from the master of the *Araunah*, I have submitted the whole case to a careful examination with a view of laying it before the Russian Government.

* * * * *

Much is made by Mr. Seward of the statement of Groburtzky that he would have seized the *Araunah* had she been fitted out with apparatus for seal-catching anywhere within 100 miles south of Commander Islands. Had he assigned this as his true motive for capturing the ship the case would be a very grave one, but as he has given his motives for capturing the ship in a written declaration, we are bound to go by that, and are not at liberty to go outside this declaration and supersede a document signed and sealed by anything he may have said *viva voce*.

It appears to me that it is of extreme importance to note the exact words of this certificate, which does not state that he confiscated the schooner for *being* within customs limit, but for seal-hunting* within the customs limit of Meday (Medway) Island.

* * * * *

The conversation between Seward and Captain Gronberg, of which an affidavit is given in Mr. Seward's letter of October 18, throws no light upon the subject, because all that Captain Gronberg vouchsafes to say is that the schooner was "about east by south and a half south distant 3 miles from the southeast point of the island," which might leave her just inside or just outside the limit. It is therefore perfectly clear that the ground they will take up will be that the canoes and not the schooner were within the limits.

I am, etc.,

R. B. D. MORIER.

[Inclosure 2 in No. 388.]

Captain Seward to Mr. Dehring, Her British Majesty's Chargé d'Affaires, St. Petersburg.

DEAR SIR: Regarding the seizure of the British sealing schooner *Araunah*, of Victoria, British Columbia, by M. Groburtzky, on the Russian merchantman *Alexander II*, for alleged violation of the fishing and hunting laws of the Imperial Russian Government, of which I informed you in my dispatch of August 9, 1888, from Vladivostock, I now respectfully submit the following facts: On July 1, 1888, at 6.30 a. m., during a heavy fog and calm, I calculated the schooner's position to be 16 miles south by west

* The meaning of this is that the seal-hunting being done from canoes, they were within the limit.

S. Ex. 106—6

of the southern extreme of Copper or Medway Island. Judging myself in the open waters of the North Pacific Ocean, I ordered the canoes out for hunting. At about 7.30 a. m. the fog lifted, when the schooner was found to be east by south about 6 to 8 miles distant from the southern extreme of island, with the canoes out to the south and west of schooner. When in this position a steamer was sighted, which bore at once down upon us, proving to be the Alaska Commercial Company's steamer *Alexander II*, flying at peak the Russian merchant ensign and at maintop a green flag with white cross. When near, the schooner was hailed, and I, the master, was asked to come aboard steamer, which I did; when on steamer's deck I was informed by Mr. Groburtzky that he would confiscate the schooner for being within the limit. This I denied, but was answered that the boundary ran from Cape Lapatka to the Island of Atton, and that I could protest against the seizure to the authorities at Vladivostock, where the case would be forwarded. As the officer produced no documentary evidence of his authority, I asked upon what authority the seizure was made, in answer to which the officer pointed to the flag at maintop saying, "There is my authority." The officers and crew of schooner were then made prisoners and transferred aboard steamer *Alexander*. The schooner was towed to the settlement Glinka, on Copper Island, where the skins, 133, were landed at company's warehouse. Here I had to deliver the schooner's papers to officer Groburtzky. Before doing so, I demanded a paper stating the reason of confiscation, which I forward herewith, and a copy of which I was asked to sign after it having been translated to me by Mr. J. Mallewansky. It read in substance that this day the schooner *Araunah* had been confiscated for hunting within the limits of the Russian possessions. I here notified Mr. Groburtzky, in presence of Mr. J. Mallewansky, of my protest against this seizure, which protest I would make before nearest representative of Her British Majesty's Government, and in accordance with advice in your T. G. of August 15, 1888, have to admiral and governor of Valdivostock, the certified copy of which I send herewith. The schooner was then brought to Petropolvsky by a crew of steamer *Alexander*, where upon arrival of schooner the salt stores, provisions, and also part of personal property of crew, were sold by Mr. Groburtzky without the confiscation having been declared legal by any authority than his own. I must add that we had no intention whatever to violate the laws of the Imperial Royal Government, but intended to follow the hunting in the open waters of the North Pacific Ocean, neither had we any means to do otherwise, as the hunting outfit of schooner consisted of six Indian canoes manned by two Vancouver Indians each, had no fire-arms aboard, save three old muzzle-loading shotguns, being the property of some of the Indians, also one shotgun and one rifle, being the personal property of some of the members of the crew.

From the foregoing it will be seen that the schooner was set by an unknown current, not marked upon chart, during the fog to the north and east of her course, and the canoes having left the schooner during the fog, when there was no land in sight nor any visible sign to prove the calculated position erroneous, will explain the position of canoes at time of seizure; also that the schooner was not less than the estimated 6 miles from land is clearly proven by the *Alexander* steaming two hours and forty minutes at a rate of 6 knots per hour (see steamer engineer's log) from point of seizure to Glinka, which is 7 miles from south point of island. This can be demonstrated on chart or diagram herewith, showing that it was impossible for schooner to have been, as alleged, within 3-mile limit or gunshot limit. As to the 133 seal skins found aboard, I refer to schooner's fishing log, now in the hands of Imperial Russian Government. I also beg to call attention to the fact that the steamer *Alexander II* is owned by the Alaska Commercial Company, who are also the lessees of Copper and Behring Islands.

As to the reliability of the statement of Mr. Groburtzky as to the true position of schooner at time of seizure I will say that Mr. Groburtzky is no mariner, and consequently no competent judge to personally determine the exact position of schooner. Furthermore, I learned while prisoner aboard of *Alexander* that neither the first nor second officer of steamer had been called upon by Captain Greenburg, of steamer, to witness or verify the bearing and distance of schooner, so that the judgment of the schooner's actual position at time of seizure is but the guess-work of the captain, Greenburg, of steamer *Alexander II*, and of him alone, as a consultation on this serious point with his officers might have resulted in proving the schooner beyond the limits. In submitting the above facts to your careful consideration I beg that you will use every means in your power to effect a restitution of the unjustly and illegally confiscated property and payment of damages incurred thereby.

The above sworn to before Her Britannic Majesty's consul at Nagasaki by myself; H. P. Bonde, mate; W. Standish, steward; G. Braum; P. Doering; the 27th day of August, 1888, and forwarded together with all documents by consul, Mr. Ensby, to St. Petersburg.

Very, etc.,

H. F. S.,
Master.

[Inclosure 3 in No. 388.]

Copies of telegrams.

[Captain Seward to the British embassy at St. Petersburg.]

VLADIVOSTOCK, August 9, 1888.

Sealing schooner *Araunah*, of Victoria, was set during heavy fog and calm by current within 6 miles of southern extreme of Copper Island when seized by Russian Merchantman Alexander. Left here with crew, among them twelve Vancouver Indians, unprovided. Please advise.

SIEWARD, Master.

[From British embassy, St. Petersburg, August 13, 1888, to Seward, Vladivostock.]

Your telegram received. Steps will be taken with least delay possible.

[From Seward to British embassy, August 15, 1888.]

Will forward protest, sworn to before consul at Nagasaki. Also, all documents pertaining to seizure. Please advise, if necessary to protest here; also, if other steps required here. Owners names Hall & Gœpel, Victoria.

[Reply, August 17, 1888.]

Your case has been brought to the notice of Russian Government, who have telegraphed to inquire into it. You might protest locally. Forward all documents here.

DEHRING,
British Chargé d'Affaires.

PART II.

CORRESPONDENCE RELATIVE TO NEGOTIATIONS FOR THE CONCLUSION OF TREATIES FOR THE PROTECTION OF FUR SEALS IN BEHRING SEA.

FRANCE.

No. 69.

*Mr. Bayard to Mr. Vignaud.**

No. 256.]

DEPARTMENT OF STATE,
Washington, August 19, 1887.

SIR: Recent occurrences have drawn the attention of this Department to the necessity of taking steps for the better protection of the fur-seal fisheries in Behring Sea.

Without raising any question as to the exceptional measures which the peculiar character of the property in question might justify this Government in taking, and without reference to any exceptional marine jurisdiction that might properly be claimed for that end, it is deemed advisable—and I am instructed by the President so to inform you—to attain the desired ends by international co-operation.

It is well known that the unregulated and indiscriminate killing of seals in many parts of the world has driven them from place to place, and, by breaking up their habitual resorts, has greatly reduced their number.

Under these circumstances, and in view of the common interest of all nations in preventing the indiscriminate destruction and consequent extermination of an animal which contributes so importantly to the commercial wealth and general use of mankind, you are hereby instructed to draw the attention of the Government to which you are accredited to the subject, and to invite it to enter into such an arrangement with the Government of the United States as will prevent the citizens of either country from killing seal in Behring Sea at such times and places, and by such methods as at present are pursued, and which threaten the speedy extermination of those animals and consequent serious loss to mankind.

The ministers of the United States to Germany, Sweden and Norway, Russia, Japan, and Great Britain have been each similarly addressed on the subject referred to in this instruction.

I am, etc.,

T. F. BAYARD.

*Identical instructions were sent to our ministers to Germany, Great Britain, Japan, Russia, and Sweden and Norway.

No. 70.

Mr. McLane to Mr. Bayard.

No. 490.]

LEGATION OF THE UNITED STATES,
Paris, October 22, 1887. (Received November 11.)

SIR: Referring to your No. 256, of August 19, instructing Mr. Vignaud to draw the attention of the French Government to the necessity of taking steps for the better protection of the fur-seal fisheries in Behring Sea with a view of obtaining its co-operation with the United States in measures intended to reach that end, I have to state that Mr. Flourens is willing to consider favorably any project of international arrangement you may be disposed to submit concerning the matter.

I inclose herewith a translation of a note received from Mr. Flourens which explains his view. The note of September 17, to which he refers, is simply an acknowledgment.

I have, etc.,

ROBERT M. McLANE.

[Inclosure with No. 490.—Translation.]

Mr. Flourens to Mr. McLane.

PARIS, October 21, 1887.

SIR: Mr. Vignaud was good enough to inform me on the 31st of August last that the United States Government was desirous of consulting with the principal nations interested, with the view of making regulations in regard to the seal fisheries in Behring Strait.

Referring to my communication of the 17th September last, I have the honor to inform you that, although the industry in question has not been engaged in by French ship-owners up to the present time, the Government of the Republic is not the less disposed to confer for that purpose with the Government of the United States and to examine any draught of an international convention which may be communicated to it by the Cabinet at Washington.

I will be obliged to you if you will be kind enough to transmit this reply to the American Government.

Accept, etc.,

FLOURENS.

No. 71.

Mr. Bayard to Mr. McLane.

No. 271.]

DEPARTMENT OF STATE,
Washington, November 18, 1887.

SIR: I have to acknowledge your No. 490, of the 22d ultimo, transmitting copy of a note of the 21st of October from Mr. Flourens, informing this Government of the willingness of the French Republic, though there are not many French ships engaged in the seal fisheries, to confer with us or to examine any draught of a convention intended to regulate those fisheries in Behring Straits.

This response of the French Government to our invitation is very satisfactory, and in due time further instructions on the subject will be sent you.

I am, etc.,

T. F. BAYARD.

No. 72.

*Mr. Bayard to Mr. McLane.**

No. 293.]

DEPARTMENT OF STATE,
Washington, February 7, 1888.

SIR: I inclose herewith, for your information, two printed copies of an instruction† of this date to E. J. Phelps, esquire, United States minister at London, in response to a dispatch from him, in which it was stated that Lord Salisbury had expressed acquiescence in a proposal made by me for an agreement between the United States and Great Britain in regard to the adoption of concurrent regulations for the preservation of fur seals in Behring Sea from extermination by destruction at improper seasons and by improper methods by the citizens of either country.

I am, etc.,

T. F. BAYARD.

GERMANY.

No. 73.

Mr. Coleman to Mr. Bayard.

No. 498.]

LEGATION OF THE UNITED STATES,
Berlin, September 1, 1887. (Received September 17.)

SIR: I have the honor to inclose herewith a copy of a note I have to-day addressed to the foreign office in execution of your instruction No. 246, of the 19th ultimo, relating to the necessity of measures being adopted for the better protection of the fur-seal fisheries in Behring Sea.

I have, etc.,

CHAPMAN COLEMAN

[Inclosure with Mr. Coleman's No. 498.]

Mr. Coleman to Count von Berchem.

No. 311.]

LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, September 1, 1887.

The undersigned, chargé d'affaires *ad interim* of the United States of America, has the honor, acting under instructions from his Government, to inform Count von Berchem, under secretary of state in charge of the imperial foreign office, that recent occurrences have drawn the attention of that Government to the necessity of taking steps for the better protection of the fur-seal fisheries in Behring Sea.

Without raising any question as to the exceptional measures which the peculiar character of the property in question might justify the Government of the United States in taking, and without reference to any exceptional marine jurisdiction that might properly be claimed for that end, it has been deemed advisable to seek to attain the desired ends by international co-operation.

It is well known that the unregulated and indiscriminate killing of seals in many parts of the world has driven them from place to place, and by breaking up their habitual resorts, has greatly reduced their number.

Under these circumstances and in view of the common interest of all nations in

* Identical instructions were sent to the United States ministers to Germany, Russia, and Sweden and Norway.

† For this instruction see *infra*, No. 76.

preventing the indiscriminate destruction and consequent extermination of an animal which contributes so importantly to the commercial wealth and general use of mankind, the Government of the United States has instructed the undersigned to present the subject to the attention of the Imperial Government, and to invite it to enter into such an arrangement with the Government of the United States as will prevent the citizens of either country from killing seals in Behring Sea at such times and places, and by such methods as at present are pursued, and which threaten the speedy extermination of those animals and consequent serious loss to mankind.

The undersigned begs to add that he has been informed by his Government that the ministers of the United States to Sweden and Norway, Russia, France, Great Britain, and Japan have been each similarly addressed on the subject referred to, and avails himself, etc.

CHAPMAN COLEMAN.

GREAT BRITAIN.

No. 74.

Mr. Phelps to Mr. Bayard.

No. 618.]

LEGATION OF THE UNITED STATES,
London, November 12, 1887. (Received November 22.)

SIR: Referring to your instructions numbered 685, of August 19, 1887, I have now to say that owing to the absence from London of Lord Salisbury, secretary of state for foreign affairs, it has not been in my power to obtain his attention to the subject until yesterday.

I had then an interview with him, in which I proposed on the part of the Government of the United States that by mutual agreement of the two Governments a code of regulations should be adopted for the preservation of the seals in Behring Sea from destruction at improper times and by improper means by the citizens of either country; such agreement to be entirely irrespective of any questions of conflicting jurisdiction in those waters.

His lordship promptly acquiesced in this proposal on the part of Great Britain and suggested that I should obtain from my Government and submit to him a sketch of a system of regulations which would be adequate for the purpose.

I have therefore to request that I may be furnished as early as possible with a draught of such a code as in your judgment should be adopted.

I would suggest also that copies of it be furnished at the same time to the ministers of the United States in Germany, Sweden and Norway, Russia, France, and Japan, in order that it may be under consideration by the Governments of those countries. A mutual agreement between all the Governments interested may thus be reached at an early day.

I have, etc.,

E. J. PHELPS.

No. 75.

Mr. Bayard to Mr. Phelps.

No. 733.]

DEPARTMENT OF STATE,
Washington, November 25, 1887.

SIR: Your No. 618, of the 12th instant, stating the result of your interviews with Lord Salisbury on the subject of the seal fisheries in Behring Sea, is received.

The favorable response to our suggestion of mutually agreeing to a code of regulations is very satisfactory, and the subject will have immediate attention.

I am, etc.,

T. F. BAYARD.

No. 76.

Mr. Bayard to Mr. Phelps.

No. 782.]

DEPARTMENT OF STATE,
Washington, February 7, 1888.

SIR: I have received your No. 618, of the 12th of November last, containing an account of your interview with Lord Salisbury of the preceding day, in which his lordship expressed acquiescence in my proposal of an agreement between the United States and Great Britain in regard to the adoption of concurrent regulations for the preservation of fur seals in Behring Sea from extermination by destruction at improper seasons and by improper methods by the citizens of either country.

In response to his lordship's suggestion that this Government submit a sketch of a system of regulations for the purpose indicated, it may be expedient, before making a definite proposition, to describe some of the conditions of seal life; and for this purpose it is believed that a concise statement as to that part of the life of the seal which is spent in Behring Sea will be sufficient.

All those who have made a study of the seals in Behring Sea are agreed that, on an average, from five to six months, that is to say, from the middle or towards the end of spring till the middle or end of October, are spent by them in those waters in breeding and in rearing their young. During this time they have their rookeries on the islands of St. Paul and St. George, which constitute the Pribyloff group and belong to the United States, and on the Commander Islands, which belong to Russia. But the number of animals resorting to the latter group is small in comparison with that resorting to the former. The rest of the year they are supposed to spend in the open sea south of the Aleutian Islands.

Their migration northward, which has been stated as taking place during the spring and till the middle of June, is made through the numerous passes in the long chain of the Aleutian Islands, above which the courses of their travel converge chiefly to the Pribyloff group. During this migration the female seals are so advanced in pregnancy that they generally give birth to their young, which are commonly called pups, within two weeks after reaching the rookeries. Between the time of the birth of the pups and of the emigration of the seals from the islands in the autumn the females are occupied in suckling their young; and by far the largest part of the seals found at a distance from the islands in Behring Sea during the summer and early autumn are females in search of food, which is made doubly necessary to enable them to suckle their young as well as to support a condition of renewed pregnancy, which begins in a week or a little more after their delivery.

The male seals, or bulls, as they are commonly called, require little food while on the islands, where they remain guarding their harems, watching the rookeries, and sustaining existence on the large amount of blubber which they have secreted beneath their skins and which is gradually absorbed during the five or six succeeding months.

Moreover, it is impossible to distinguish the male from the female seals in the water, or pregnant females from those that are not so. When the animals are killed in the water with fire-arms many sink at once and are never recovered, and some authorities state that not more than one out of three of those so slaughtered is ever secured. This may, however, be an overestimate of the number lost.

It is thus apparent that to permit the destruction of the seals by the use of fire-arms, nets, or other mischievous means in Behring Sea would result in the speedy extermination of the race. There appears to be no difference of opinion on this subject among experts. And the fact is so clearly and forcibly stated in the report of the inspector of fisheries for British Columbia of the 31st of December, 1886, that I will quote therefrom the following pertinent passage :

There were killed this year, so far, from 40,000 to 50,000 fur seals, which have been taken by schooners from San Francisco and Victoria. The greater number were killed in Behring Sea, and were nearly all cows or female seals. This enormous catch, with the increase which will take place when the vessels fitting up every year are ready, will, I am afraid, soon deplete our fur-seal fishery, and it is a great pity that such a valuable industry could not in some way be protected. (Report of Thomas Mowat, Inspector of Fisheries for British Columbia; Sessional papers, Vol. 15, No. 16, p. 268; Ottawa, 1887.)

The only way of obviating the lamentable result above predicted appears to be by the United States, Great Britain, and other interested powers taking concerted action to prevent their citizens or subjects from killing furseals with fire-arms, or other destructive weapons, north of 50° of north latitude, and between 160° of longitude west and 170° of longitude east from Greenwich, during the period intervening between April 15 and November 1. To prevent the killing within a marine belt of 40 or 50 miles from the islands during that period would be ineffectual as a preservative measure. This would clearly be so during the approach of the seals to the islands. And after their arrival there such a limit of protection would also be insufficient, since the rapid progress of the seals through the water enables them to go great distances from the islands in so short a time that it has been calculated that an ordinary seal could go to the Aleutian Islands and back, in all a distance of 360 or 400 miles, in less than two days.

On the Pribyloff Islands themselves, where the killing is at present under the direction of the Alaska Commercial Company, which by the terms of its contract is not permitted to take over 100,000 skins a year, no females, pups, or old bulls are ever killed, and thus the breeding of the animals is not interfered with. The old bulls are the first to reach the islands, where they await the coming of the females. As the young bulls arrive they are driven away by the old bulls to the sandy part of the islands, by themselves. And these are the animals that are driven inland and there killed by clubbing, so that the skins are not perforated, and discrimination is exercised in each case.

That the extermination of the fur seals must soon take place unless they are protected from destruction in Behring Sea is shown by the fate of the animal in other parts of the world, in the absence of concerted action among the nations interested for its preservation. Formerly many thousands of seals were obtained annually from the South Pacific Islands, and from the coasts of Chili and South Africa. They were also common in the Falkland Islands and the adjacent seas. But in those islands, where hundreds of thousands of skins were formerly obtained, there have been taken, according to best statistics, since 1880, less than 1,500 skins. In some places the indiscriminate slaughter, especially by

use of fire-arms, has in a few years resulted in completely breaking up extensive rookeries.

At the present time it is estimated that out of an aggregate yearly yield of 185,000 seals from all parts of the globe, over 130,000, or more than two-thirds, are obtained from the rookeries on the American and Russian islands in Behring Sea. Of the remainder, the larger part are taken in Behring Sea, although such taking, at least on such a scale, in that quarter is a comparatively recent thing. But if the killing of the fur seal there with fire-arms, nets, and other destructive implements were permitted, hunters would abandon other and exhausted places of pursuit for the more productive field of Behring Sea, where extermination of this valuable animal would also rapidly ensue.

It is manifestly for the interests of all nations that so deplorable a thing should not be allowed to occur. As has already been stated, on the Pribyloff Islands this Government strictly limits the number of seals that may be killed under its own lease to an American company; and citizens of the United States have, during the past year, been arrested and ten American vessels seized for killing fur seals in Behring Sea.

England, however, has an especially great interest in this matter, in addition to that which she must feel in preventing the extermination of an animal which contributes so much to the gain and comfort of her people. Nearly all undressed fur-seal skins are sent to London, where they are dressed and dyed for the market, and where many of them are sold. It is stated that at least 10,000 people in that city find profitable employment in this work; far more than the total number of people engaged in hunting the fur seal in every part of the world. At the Pribyloff Islands it is believed that there are not more than 400 persons so engaged; at Commander Islands, not more than 300; in the Northwest coast fishery, not more than 525 Indian hunters and 100 whites; and in the Cape Horn fishery, not more than 400 persons, of whom perhaps 300 are Chilians. Great Britain, therefore, in co-operating with the United States to prevent the destruction of fur seals in Behring Sea would also be perpetuating an extensive and valuable industry in which her own citizens have the most lucrative share.

I inclose for your information copy of a memorandum on the fur-seal fisheries of the world, prepared by Mr. A. Howard Clark, in response to a request made by this Department to the U. S. Fish Commissioner. I inclose also, for your further information, copy of a letter to me, dated December 3d last, from Mr. Henry W. Elliott, who has spent much time in Alaska, engaged in the study of seal life, upon which he is well known as an authority. I desire to call your especial attention to what is said by Mr. Elliott in respect to the new method of catching the seals with nets.

As the subject of this dispatch is one of great importance and of immediate urgency, I will ask that you give it as early attention as possible.

I am, etc.,

T. F. BAYARD.

[Inclosure 1.]

Review of the fur-seal fisheries of the world in 1887.

BY A. HOWARD CLARK.

In the Encyclopædia Britannica, ninth edition, the fur-seal fisheries are credited with an annual yield of 185,000 skins, of which 100,000 are said to be obtained from the Pribyloff Islands, 30,000 from the Commander Islands, 15,000 from the straits of

Juan de Fuca and vicinity, 12,000 from the Lobos Islands, 15,000 from Patagonia and outlying islands, 500 from the Falkland Islands, 10,000 from the Cape of Good Hope and places thereabout, and 2,500 from islands belonging to Japan.

The above statistics were communicated by me to the author of the article "Seal Fisheries" in the *Encyclopædia* and had been carefully verified by the latest official records and by a personal interview with Messrs. C. M. Lampson & Co., of London, one of the principal fur houses of the world, and by whom most of the annual production of fur seal-skins are placed upon the market.

A review of the subject at this time (January, 1888) necessitates but a slight change in the annual production and in the apportionment to the several fisheries. Some of the fisheries have increased while others have decreased. Taking the average annual yield from 1880 to date, I find that the total production is now 192,457 skins, obtained as follows:

Annual yield of fur-seal fisheries.

	Fur-seal skins.
Pribyloff Islands, Behring Sea.....	94,967
Commander Islands and Robben Reef.....	41,893
Islands belonging to Japan.....	4,000
British and American sealing fleets on northwest coast of America (including catch at Cape Flattery and Behring Sea).....	25,000
Lobos Islands at mouth of Río de la Plata.....	12,385
Cape of Good Hope, including islands in Southern Indian Ocean.....	5,500
Cape Horn region.....	8,162
Falkland Islands.....	550
Total.....	192,457

The statistics for the Pribyloff and Commander Islands are compiled from reports of the Alaska Commercial Company, Mr. Elliott's reports in volume 8, Tenth Census, and in section 5, U. S. Fish Commission report, and trade reports of annual sales in London (Fur Trade Review, published monthly at No. 11 Bond street, New York). The northwest coast statistics are from the annual reports of the department of fisheries of Canada and from Mr. Swan's report in section 5, volume 2, of the quarto report of the U. S. Fish Commission. For Japan, Lobos Islands, Cape of Good Hope, and Falkland Islands the statistics are from the "Annual Statements of the Trade of the United Kingdom with foreign countries and British possessions as presented to Parliament." Statistics for Cape Horn region are from sealing merchants of Stonington and New London, Conn.

The details of the fisheries for a series of years are shown in the following table: (As to the number of persons employed, it is not possible to give details in all cases. At Pribyloff Islands in 1880 there were 372 Aleuts and 18 whites. At Commander Islands there are about 300 persons; in the northwest coast fishery 523 Indian hunters and 100 whites, and in the Cape Horn fishery about 400 whites, of whom perhaps 300 are Chilians.)

Number of fur-seal skins from principal fisheries, 1871 to 1887.

[Compiled from official sources by A. H. Clark. No returns for spaces blank.]

Year.	Pribyloff Islands.	Commander Islands and Robben Reef.	Northwest coast of America.	Japan.	Falkland Islands.	Cape Horn.	Lobos Islands.	Cape of Good Hope.
1871.....	63,000	3,614	.....	(*)	.....	(†)	.....	.....
1872.....	99,000	29,319	.....	(*)	.....	(†)	.....	.....
1873.....	99,630	30,396	.....	(*)	.....	(†)	.....	.....
1874.....	99,820	31,272	.....	(*)	1,085	(†)	7,954	9,393
1875.....	99,500	36,274	.....	(*)	100	(†)	2,243	8,629
1876.....	99,000	26,960	.....	(*)	173	(†)	6,618	11,225
1877.....	85,000	21,532	.....	(*)	1,386	(†)	22,550	11,065
1878.....	95,000	31,340	.....	(*)	2,366	(†)	11,931	13,086
1879.....	99,968	42,752	18,500	(*)	4,038	(†)	6,900	15,128
1880.....	99,950	48,504	19,150	(*)	2,427	9,275	10,900	7,731
1881.....	85,000	42,640	.....	(*)	620	6,610	8,887	8,280
1882.....	99,800	46,000	17,700	(*)	50	8,600	15,067	11,497
1883.....	78,000	25,000	.....	11,943	8	(§)	13,950	7,020
1884.....	99,500	38,000	15,641	.....	684	(§)	10,722	3,924
1885.....	99,600	42,000	15,000	.....	.....	(§)	11,223	4,407
1886.....	98,000	45,000	38,907	3,695	68	(§)	15,949	3,378
1887.....	99,890	48,000	29,211	.....	.....	(§)	.....	.....

* Annual average estimated at 4,000 skins.

† Catch landed at British Columbia vessels.

‡ Mostly taking in Behring Sea. See Schedule A.

† Total 1870 to 1880, 92,750; average, 9,275.

§ Returns not received.

The second point upon which information is requested is "that of the destruction of the fur seal, resulting either in its extermination or the diminution of its yield, in places where it formerly abounded," etc.

At the beginning of the present century there were great rookeries of fur seal at Falkland Islands, at the South Shetlands, at Masafuera, at South Georgia, and at many other places throughout the Antarctic region. These places were visited by sealing vessels, and indiscriminate slaughter of the animals resulted in the extermination of the species or in such diminution in their numbers that the fishery became unprofitable.

The details of the Antarctic fishery are given in section 5, volume 2, of the quarto report of the U. S. Fish Commission, pages 400-467; in report by H. W. Elliott on "Seal Islands of Alaska," 6, 117-124 (reprinted in volume 8, Tenth Census Reports); in "Monograph of North American Pinnipeds," by J. A. Allen (Misc. Pub. XII, U. S. Geological Survey); in "Fanning's Voyages Round the World" (New York, 1833); in "Narrative of Voyages and Travels in Northern and Southern Hemispheres," by Amasa Delano (Boston, 1817); and in numerous other works, to which reference will be found in the above volumes.

A few men are still living who participated in the Antarctic seal fisheries years ago. Their stories of the former abundance of fur seals I have obtained in personal interviews. As to the manner of destruction there is but one thing to say. An indiscriminate slaughter of old and young, male and female, in a few years results in the breaking up of the largest rookeries, and, as in the case of Masafuera and the Falkland Islands, the injury seems to be a permanent one. As an instance, the South Shetlands were first visited in 1819, when fur seals were very abundant; two vessels in a short time securing full fares. In 1820, thirty vessels hastened to the Islands, and in a few weeks obtained upwards of 250,000 skins, while thousands of seals were killed and lost. In 1821 and 1822 Weddell* says "320,000 skins were taken. * * * The system of extermination was practiced, * * * for whenever a seal reached the beach, of whatever denomination, he was immediately killed and his skin taken, and by this means, at the end of the second year, the animals became nearly extinct; the young having lost their mothers when only three or four days old, of course died, which at the lowest calculation exceeded 100,000." In subsequent years, until 1845, these islands were occasionally visited by vessels in search of seal skins, but never after 1822 were many animals found there. About 1845 the Antarctic fur sealing was abandoned. In 1871 the industry was renewed, and a few vessels secured some valuable furs from the South Shetlands, but in a few years voyages there became unprofitable. (See section 5, volume 2, U. S. Fish Commissioner's Report, pp. 402-458.)

The same story may be told of Masafuera, from which island about 3,500,000 fur-seal skins were taken between the years 1793 and 1807 (see section 5, as above, p. 407). Captain Morrell states that in 1807 "the business was scarcely worth following at Masafuera, and in 1824 the island, like its neighbor Juan Fernandez, was almost entirely abandoned by these animals." (Morrell's Voyage: New York, 1832, p. 130.) Scarcely any seals have since been found at Masafuera. Delano states that in 1797 there were two or three million fur seals on that island. Elliott, in his report, already cited, gives accounts of earlier voyages to Masafuera, etc. I have consulted log-books and journals of several voyages, all agreeing in the former abundance and the extermination of the fur seal on Masafuera as well as on other Antarctic or southern islands.

At the Falkland Islands both fur seals and sea lions abounded, but there, too, they were destroyed.

The sealing business at South Georgia was most prosperous in 1800, during which season sixteen American and English vessels took 112,000 fur-seal skins. Though not as important a rookery as some of the other islands, considerable numbers of fur seals have been taken from South Georgia. Since 1870 some good cargoes of elephant-seal oil have been taken there.

Fur seals were abundant at the Tristan d'Acunha Islands at the beginning of the century, and because of the almost inaccessible caves and rocks to which they resort, a few have survived, or least as late as 1873 a few were annually taken there.

On the west coast of Africa, from Cape of Good Hope to 16° south latitude, there was until 1870 a considerable number of fur seals of an inferior quality, but they are now practically exhausted, the few skins marketed as coming from there being taken on various hauling grounds on islets farther south and east. (See Sec. 5, vol. 2, U. S. Fish Com. Report, p. 415.)

The Prince Edward group, Crozet Islands, Kerguelen Land, and other smaller islands in the Southern Indian and Southern Pacific Oceans were important seal fisheries, both for the fur and elephant seal. At none of them is any number of seals found to-day. The English exploring ship *Challenger* visited Kerguelen Land in 1873-'76, and reports:

* Weddell's Voyages, p. 130, quoted in sec. 5, vol. 2, quarto report of U. S. F. C., p. 407.

"Two of the whaling schooners met with at the island killed over seventy fur seals in one day and upwards of twenty at another, at some small islands off Howe Islands to the north. It is a pity that some discretion is not exercised in killing the animals, as is done at St. Paul Island, in Behring Sea, in the case of the northern fur seal. By killing the young males and selecting certain animals only for killing the number of seals even may be increased; the sealers in Kerguelen Island kill all they can find." (See "Report of the Scientific Results of the Exploring Voyage of H. M. S. *Challenger*, 1873-'76. Narrative of the Cruise, vol I, in two parts. 4°. Published by order of Her Majesty's Government, 1885.")

In these volumes will be found similar references to other seal islands visited by the *Challenger*. In referring to Marion Island the report says:

"The ruthless manner in which fur and elephant seals were destroyed by the sealing parties in the early part of this century has had the effect of almost exterminating the colony that used these desolate islands for breeding purposes." (Vol. I, p. 294.)

To recapitulate, concerning seal rookeries south of the equator, I may say that there is no single place where any number are now known to resort, except on the Lobos Islands, off Peru, and at the mouth of the Rio de la Plata, and on the neighboring hauling grounds at the cliffs of Cabo Corrientes. Here they are and have long been protected by the Argentine Republic or Uruguay, and the rookery appears to remain about the same size, with little apparent increase or decrease in the number of animals, as may be seen by statistics of the catch in the table above given.

The small rookeries or hauling grounds at Diego Ramirez Islands, Cape Horn, and the rocky islets in that vicinity, from 1870 to 1883 or 1884, yielded some return to the hardy sealers of Stonington and New London, Conn., from which ports a half dozen vessels have been annually sent. Even this last resort of American sealers is practically exhausted, and only by much search is a profitable voyage made there. Dr. Coppinger, who was at Cape Horn in 1878-'82 (Cruise of the *Alert*, by R. W. Coppinger: London, 1883), tells of the difficulties of sealing at Cape Horn, and of the profits made when even a few skins are secured. In 1880 Captain Temple "came through the western channels of Patagonia, having entered the straits at Tres Montes," and on the Cavadonga group of barren rocks he says he found some thousands of seals.

Had the great southern rookeries been protected by Government it is altogether probable, according to all authorities, that they would to-day yield many thousands of skins, in some cases equal to the valuable returns of the Pribyloff group.

In proceeding up the Southern Pacific from Masafuera we pass St. Felix, the Lobos Islands off Peru, and the Galapagos Islands, on which, as well as on other islands in that ocean, the fur seal once was found, but whence it has been exterminated. North of the equator we meet first the Guadaloupe Islands, where in 1878 there were a few fur seals, presumably migrations from the Pribyloff group. Moving northward along the Californian and northwest coast the fur seal is found in winter and early spring on its way to the great breeding grounds on the Pribyloff Islands. It is during this migration that the Pacific sealing schooners of British Columbia and San Francisco capture them, and it is probable that if the fleet increases in size with a corresponding increase in the number of seals taken, there will ere long be an appreciable decrease in the number of seals on the Pribyloff Islands. This can not but be the result, for many seals are killed and not secured, and there is the same indiscriminate slaughter as regards young and old, male and female, that was practiced at the southern rookeries. The statistics showing the present growing condition of the northwest coast fishery and the efforts of the fishermen to follow the seals even into Behring Sea are already a matter of record and need not be repeated here except to refer to the annual reports of the department of fisheries of Canada. In the report for 1886 will be found (on page 249) the names of the British Columbian fleet, aggregating 20 vessels manned by 79 sailors and 380 hunters, and their catch is given at 38,917 skins as compared with 13 vessels taking 17,700 skins in 1882. The American vessels in this fleet in 1880 and their catch is given by Mr. Swan in section 5, volume 2, of the quarto report of U. S. Fish Commission.

It is not necessary that I refer to the condition of the rookeries on the Pribyloff Islands. There can be no question concerning the advisability of regulating the number of animals to be killed and the selection of such animals as will not interfere with the breeding of the species. The history of the islands at the beginning of the century, when there was an indiscriminate slaughter of fur seals, and the protection of the animals in 1808 and thereafter by the Russian and American Governments is fully told by Veniaminov and by Elliott, and need not be repeated here. (Veniaminov's *Zapieskie*, etc.; St. Petersburg, 1842; volume 2, pp. 568, quoted by H. W. Elliott in *Seal Islands of Alaska*, pp. 140-145, volume 8, Tenth Census Report.)

The Commander Islands (Behring and Copper Islands), in Behring Sea, and Robben Reef, near Saghalién, in the Okhotsk Sea, are leased by the Alaska Commercial Company, and are protected by the Russian Government in much the same manner that the Pribyloff Islands are protected by the United States Government. A description

of the seal industry on those islands is given by Professor Nordenskiöld in Voyage of the Vega, a translation of a portion of his report being given by Mr. Elliott on pages 109-115, in Seal Islands of Alaska. At Robben Reef it is impossible to establish a station, the rock being often wave-washed, but the Alaska Company send men there in the season to gather from 1,500 to 4,000 skins each year. The agent of the Russian Government confers with the Alaska Company's agent each year to determine the number of skins that shall be taken in the Commander Islands.

The seals taken by the Japanese are those migrating from the Commander group and are not secured in large numbers, the average being about 4,000, though some years as many as 11,000 are taken.

SCHEDULE A.—*Memorandum of seal-skin seizures, vessels, etc., in Behring Sea, in 1887.*

Name and rig.	Nation.	Tonnage.	Captain.	Owner.	Seized.	Date.	Seals.
<i>Steam-schooners.</i>							
W. P. Sayward	British	59	Geo. R. Terry	J. D. Warren	Steamer Rush	July 10	477
Anne Beck	do	36	Louis Olsen	do	do	July 3	336
Grace	do	76	Wm. Petit	do	do	July 18	769
Dolphin	do	70	J. D. Warren	do	do	July 13	618
<i>Schooners.</i>							
Alfred Adams	do	68	W. W. Dyer	J. Guteman	do	Aug. 12	1,379
Ada	do	65	J. Gandin	J. Boskowitz	Steamer Bear	Aug. 25	1,876
Lottie Fairfield	American	36	H. B. Jones	L. A. Hough	Steamer Rush	Aug. 5	443
Challenger		36	A. Douglass	do	do	Aug. 5	443
Lily L.	do	63	J. W. Todd	G. W. Ladd	do	July 1	151
Annie	do	25	H. Brown	Jas. Latjen	do	July 25	195
Kate and Annie	do	16	Chas. Lutjen	Chas. Lutjen	do	Aug. 11	304
Ellen	do	12	T. H. Wentworth	G. W. Lybyjust	do	Aug. 12	577
Alpha	do	26	James Talton	{ Jas. Talton }	do	Aug. 12	195
				{ J. V. Garvin }	do	Aug. 12	389
San José	do	51	J. S. Lee	{ J. S. Lee }	do	Aug. 23	891
				{ J. D. Griffin }	do	Aug. 23	891
Angel Dolly	do	18	A. Tuller	J. D. Griffin	G. R. Tingle,	Aug. 5	178
					Treas. agent,		
Allie T. Alger	do	70	C. E. Raynor	do	Steamer Bear	Aug. 25	1,594
Sylvia Handy	do	68	J. L. Cathcut	L. N. Handy & Son	do	Sept. 2	1,597
Total							11,969

* Vessel not captured.

Arrival of sealing schooners from Behring Sea in 1887, as far as reported to October 5, 1887

Arrived at—	Name of schooner.	No. of skins.
Port Townsend	Lottie	700
Victoria	Mary Taylor	1,000
Do	Pathfinder	2,300
Do	Penelope	1,500
Do	Black Diamond	595
Do	Mountain Chief	700
Do	Lottie Fairfield	2,997
Do	Adel	1,350
Do	Favorite	1,887
Do	Teresa	1,246
Do	Triumph	480
Do	City of San Diego	1,187
Do	Vanderbilt	1,300
		17,242

Recapitulation, as reported up to October 5, 1887: Skins seized, 11,969; skins landed, 17,242; total, 29,211.

[Inclosure 2.]

*Mr. Elliott to Mr. Bayard.*SMITHSONIAN INSTITUTION,
Washington, D. C., December 3, 1887.

SIR: During the course of my extended studies of the fur seal on its breeding and hauling grounds in Behring Sea, I was led naturally into a very careful examination of the subject of its protection and perpetuation. This investigation caused me to give much attention then to the effect which pelagic sealing would have upon the well-being and the conservation of these anomalous and valuable interests of our Government as we view them upon the Pribyloff group.

When preparing, in 1881, a final arrangement of my field-notes and memoranda for publication in my Monograph of the Seal Islands of Alaska (Tenth Census United States of America), the late Professor Baird suggested that I omit the discussion of this theme of pelagic sealing, because it might serve to invite an attack which otherwise would never be made upon these preserves of our Government.

This attack, however, has recently been made, and the thought occurs to me now that a brief epitome of my study of the effect which this plan of sealing will have upon the integrity and value of our fur-bearing interests in Behring Sea—that such a brief yet accurate statement will be of service to you. I therefore venture to present the following transcript:

It is now well understood and unquestioned—

(1) That the fur seal of Alaska is obliged to haul out annually upon the Pribyloff Islands for the purpose of breeding and shedding its pelage.

(2) That from the time of its departure from these islands in the autumn of every year up to the time of its return to them in the following spring it lands nowhere else.

(3) That it arrives en masse upon these islands in June and July and departs from them in October and November.

(4) That when leaving the islands in the fall it heads directly for and rapidly passes out from Behring Sea into the waters of the North Pacific Ocean. Its paths of travel are bee-lines from the Pribyloff group to and through the numerous passes of the Aleutian Archipelago; the passes of Ooninmak, Akootan, Oonalga, Oomnak, and the Four Mountains are most favored by it.

(5) That it returns from the broad wastes of the North Pacific Ocean by these same paths of departure.

Therefore, if you will glance at the map of Alaska you will observe that the convergence and divergence of these watery paths of the fur seal in Behring Sea to and from the Seal Islands resembles the spread of the spokes of a half wheel—the Aleutian chain forms the felloe, while the hub into which these spokes enter is the small Pribyloff group.

Thus you can see that as these watery paths of the fur seal converge in Behring Sea they, in so doing, rapidly and solidly mass together thousands and tens of thousands of widely-scattered animals (as they travel) at points 50 and even 100 miles distant from the rookeries of the Seal Islands.

Here is the location and the opportunity of the pelagic sealer. Here is his chance to lie at anchor over the shallow bed of Behring Sea, 50 and 100 miles distant from the Pribyloff group, where he has the best holding ground known to sailors, and where he can ride at any weather safely swinging to his cable and in no danger from a lee shore if it should slip. The immediate vicinity, however, of the Aleutian passes is dangerous in the extreme to him. There he encounters terrible tide-rips, swift currents, and furious gales formed through the entrances, with the very worst of rough, rocky, holding ground.

But up here, anywhere from 3 to 100 miles south of the Seal Islands, in Behring Sea, in that watery road of the returning fur-seal millions, he has a safe and fine location from which to shoot, to spear, and to net these fur-bearing amphibians, and where he can work the most complete ruin in a very short time.

His power for destruction is still further augmented by the fact that those seals which are most liable to meet his eye and aim are female fur seals, which, heavy with young, are here slowly nearing the land reluctant to haul out of the cool water until the day and hour arrives that limits the period of their gestation.

The pelagic sealer employs three agencies with which to secure his quarry, viz: He sends out Indians with canoes and spears from his vessel; he uses rifle and ball, shot-guns, and buckshot; and last, but most deadly and destructive of all, he spreads the "gill-net" in favorable weather.

With gill-nets, under run by a fleet of sealers in Behring Sea, across these converging paths of the fur seal, anywhere from 3 to 100 miles southerly from the Seal Islands, I am extremely moderate in saying that such a fleet could and would utterly ruin the fur-seal rookeries of the Pribyloff Islands in less time than three of

four short seasons. If these men were unchecked every foot of that watery area of fur-seal travel in Behring Sea above indicated could and would be traversed by these deadly nets, and a seal would scarcely have one chance in ten to safely pass such a cordon in attempting to go and return from its breeding haunts.

Open these waters of Behring Sea to unchecked pelagic sealing, then a fleet of hundreds of vessels—steamers, ships, schooners, and whatnot—would immediately venture into them bent upon the most vigorous and indiscriminate slaughter of these animals. A few seasons then of the greediest rapine, then nothing left of those wonderful and valuable interests of the public which are now so handsomely embodied on the Seal Islands. Guarded and conserved as they are to-day they will last for an indefinite time to come, objects of the highest commercial value and good to the world, and subjects for the most fascinating biological study.

It is also well to note the fact that not an eligible acre of land is barred out from settlement or any other fit use by our people, and not a league of water is closed to any legitimate trade or commerce in all Alaska by this action of our Government in thus protecting the fur-bearing rookeries of the Pribyloff group.

Such are the facts in this connection. They are indisputable. No intelligent, unselfish man will advocate for a moment the policy of destruction in this instance—he never will if fully aware of the facts bearing on the question.

There are only two parties in this controversy. The party of destruction demands the full right to unchecked pelagic sealing in Behring Sea, while the party of preservation demands the suppression of that sealing. Comment is unnecessary.

Very truly, etc.,

HENRY W. ELLIOTT.

No. 77.

Mr. Phelps to Mr. Bayard.

No. 690.]

LEGATION OF THE UNITED STATES,
London, February 18, 1888. (Received February 28.)

SIR: I received yesterday your instruction No. 782, under date of February 7, relative to the Alaskan seal fisheries. I immediately addressed a note to Lord Salisbury, inclosing for his perusal one of the printed copies of the instruction, and requesting an appointment for an early interview on the subject.

I also sent a note to the Russian ambassador, and an interview with him is arranged for the 21st instant.

The whole matter will receive my immediate and thorough attention and I hope for a favorable result. Meanwhile I would ask your consideration of the manner in which you would propose to carry out the regulations of these fisheries that may be agreed upon by the countries interested. Would not legislation be necessary; and, if so, is there any hope of obtaining it on the part of Congress?

I have, etc.,

E. J. PHELPS.

No. 78.

Mr. Phelps to Mr. Bayard.

[Extract.]

No. 692.]

LEGATION OF THE UNITED STATES,
London, February 25, 1888. (Received March 6.)

SIR: Referring to your instructions, numbered 782, of February 7, 1888, in reference to the Alaska seal fisheries, and to my reply thereto, numbered 690, of February 18, I have the honor to inform you that

have since had interviews on the subject with Lord Salisbury and with M. de Staal, the Russian ambassador.

Lord Salisbury assents to your proposition to establish, by mutual arrangement between the Governments interested, a close time for fur seals, between April 15 and November 1, and between 160° of longitude west and 170° of longitude east, in the Behring Sea.

He will also join the United States Government in any preventive measures it may be thought best to adopt, by orders issued to the naval vessels in that region of the respective Governments.

I have this morning telegraphed you for additional printed copies of instructions 782 for the use of Her Majesty's Government.

The Russian ambassador concurs, so far as his personal opinion is concerned, in the propriety of the proposed measures for the protection of the seals, and has promised to communicate at once with his Government in regard to it. I have furnished him with copies of instructions 782 for the use of his Government.

I have, etc.,

E. J. PHELPS.

No. 79.

Mr. Bayard to Mr. Phelps.

No. 810,]

DEPARTMENT OF STATE,
Washington, March 2, 1888.

SIR: I have to acknowledge the receipt of your No. 690, of the 18th ultimo, in relation to the Alaskan seal fisheries, and have pleasure in observing the promptitude with which the business has been conducted.

It is hoped that Lord Salisbury will give it favorable consideration, as there can be no doubt of the importance of preserving the seal fisheries in Behring Sea, and it is also desirable that this should be done by an arrangement between the Governments interested, without the United States being called upon to consider what special measures of its own the exceptional character of the property in question might require it to take in case of the refusal of foreign powers to give their co-operation.

Whether legislation would be necessary to enable the United States and Great Britain to carry out measures for the protection of the seals would depend much upon the character of the regulations; but it is probable that legislation would be required.

The manner of protecting the seals would depend upon the kind of arrangement which Great Britain would be willing to make with the United States for the policing of the seas and for the trial of British subjects violating the regulations which the two Governments may agree upon for such protection. As it appears to this Government, the commerce carried on in and about Behring Sea is so limited in variety and extent that the present efforts of this Government to protect the seals need not be complicated by considerations which are of great importance in highways of commerce and render the interference by the officers of one Government with the merchant vessels of another on the high seas inadmissible. But even in regard to those parts of the globe where commerce is extensively carried on, the United States and Great Britain have, for a common purpose, abated in a measure their

objection to such interference and agreed that it might be made by the naval vessels of either country.

Reference is made to the treaty concluded at Washington on the 7th of April, 1862, between the United States and Great Britain for the suppression of the slave trade, under which the joint policing of the seas by the naval vessels of the contracting parties was provided for. In this convention no limitation was imposed as to the part of the high seas of the world in which visitation and search of the merchant vessels of one of the contracting parties might be made by a naval vessel of the other party. In the present case, however, the range within which visitation and search would be required is so limited, and the commerce there carried on so insignificant, that it is scarcely thought necessary to refer to the slave-trade convention for a precedent, nor is it deemed necessary that the performance of police duty should be by the naval vessels of the contracting parties.

In regard to the trial of offenders for violation of the proposed regulations, provision might be made for such trial by handing over the alleged offender to the courts of his own country.

A precedent for such procedure is found in the treaty signed at the Hague on May 6, 1882, for regulating the police of the North Sea fisheries, a copy of which is inclosed.

I am, etc.,

T. F. BAYARD.

No. 80.

Mr. White to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, April 7, 1888. (Received April 7.)

Mr. White stated that on the following Thursday he was to meet Lord Salisbury and M. de Staal to discuss the question of the protection of the seals. On April 7 he had had an interview on the subject with M. de Staal, from whom he learned that the Russian Government wished to include in the proposed arrangement that part of Behring Sea in which the Commander Islands are situated, and also the sea of Okhotsk. Mr. White supposed that the United States would not object to this.

No. 81.

Mr. White to Mr. Bayard.

No. 720.]

LEGATION OF THE UNITED STATES,
London, April 7, 1888. (Received April 17.)

SIR: Referring to your instructions numbered 782 of February 7 and 810 of March 2, respecting the protection of seals in Behring Sea, I have the honor to acquaint you that I received a private note from the Marquis of Salisbury this morning stating that at the request of the Russian ambassador he had appointed a meeting at the foreign office next Wednesday, 11th instant, "to discuss the question of a close time for the

seal fishery in Behring Sea," and expressing a hope that I would make it convenient to be present, and I have replied that I shall be happy to attend.

Subsequently I saw M. de Staal, the Russian ambassador, at his request. He referred to the interviews which Mr. Phelps had had with him, of which I was, of course, cognizant, and stated that his full instructions on the subject would not reach London until to-night or to-morrow, and that he was about to leave town until next Wednesday, but meanwhile he could say that his Government would like to have the regulations which might be agreed upon for Behring Sea extended to that portion of the latter in which the Commander Islands are situated, and also to the sea of Okhotsk (in which Robben Island is situated).

As both these places are outside the limit laid down in your instruction numbered 782 (170° of longitude east from Greenwich), I have thought it best to send you the telegram, of which I inclose a copy herewith.*

I am, etc.,

HENRY WHITE.

No. 82.

Mr. Bayard to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 9, 1888.

Mr. Bayard stated, in reply to Mr. White's telegram of April 7, that this Government did not object to the extension of the arrangement for the protection of the fur-seal fisheries to the whole of Behring Sea.

No. 83.

Mr. Bayard to Mr. White.

[Extract.]

No. 849.]

DEPARTMENT OF STATE,
Washington, April 18, 1888.

SIR: I have to acknowledge your No. 720 of the 7th instant, inclosing copy of your telegram of the same date in which you informed the Department that Lord Salisbury, the Russian ambassador, and yourself were to meet on Thursday, the 12th instant, to discuss the protection of seals, and that the Russian Government desired to include in the proposed arrangement that portion of Behring Sea in which Commander Islands are situated, and also the sea of Okhotsk.

On the 9th instant I sent you a telegram stating that this Government did not object to the extension of the arrangement for the protection of the fur-seal fisheries to the whole of Behring Sea.

Owing to an error in transmission of your telegram, Okhotsk Sea did not appear to be included in the suggestion, but there is no objection to such inclusion.

I am, etc.,

T. F. BAYARD.

* For inclosure see *supra* No. 80.

No. 84.

Mr. White to Mr. Bayard.

No. 725.]

LEGATION OF THE UNITED STATES,
London, April 20, 1888. (Received April 30.)

SIR: Referring to your instructions Nos. 685, 782, and 810, to Mr. Phelps' dispatches Nos. 618 and 690, and to subsequent correspondence, I have the honor to acquaint you that I called at the foreign office on the 16th instant for the purpose of discussing with the Marquis of Salisbury and M. de Staal, the Russian ambassador, the details of the proposed conventional arrangement for the protection of seals in Behring Sea.

M. de Staal expressed a desire, on behalf of his Government, to include in the area to be protected by the convention the sea of Okhotsk, or at least that portion of it in which Robben Island is situated, there being, he said, in that region large numbers of seals, whose destruction is threatened in the same way as those in Behring Sea.

He also urged that measures be taken by the insertion of a clause in the proposed convention or otherwise, for prohibiting the importation, by merchant vessels, into the seal-protected area, for sale therein, of alcoholic drinks, fire-arms, gunpowder, and dynamite.

Lord Salisbury expressed no opinion with regard to the latter proposal, but, with a view to meeting the Russian Government's wishes respecting the waters surrounding Robben Island, he suggested that, besides the whole of Behring Sea, those portions of the Sea of Okhotsk and of the Pacific Ocean north of north latitude 47° should be included in the proposed arrangement.

His lordship intimated furthermore that the period proposed by the United States for a close time, April 15 to November 1, might interfere with the trade longer than absolutely necessary for the protection of the seals, and he suggested October 1, instead of a month later, as the termination of the period of seal protection.

I referred to the communications already made by Mr. Phelps on this subject to Lord Salisbury, and said that I should be obliged to refer to you the proposals which had just been made, before expressing an opinion with regard to them.

I have accordingly the honor to ask for instructions in reference to the same.

Meanwhile the Marquis of Salisbury promised to have prepared a draught convention for submission to the Russian ambassador and to myself. I shall lose no time in forwarding to you a copy of this document when received.

I am, etc.,

HENRY WHITE.

No. 85.

Mr. Bayard to Mr. White.

No. 864.]

DEPARTMENT OF STATE,
Washington, May 1, 1888.

SIR: Your dispatch No. 725 of the 20th ultimo stating the result of your interview with Lord Salisbury and the Russian ambassador relative to the protection of seals in Behring Sea, and requesting further instructions as to their proposals, has been received.

As you have already been instructed, the Department does not object to the inclusion of the sea of Okhotsk, or so much of it as may be necessary, in the arrangement for the protection of the seals. Nor is it thought absolutely necessary to insist on the extension of the close season till the 1st of November.

Only such a period is desired as may be requisite for the end in view. But in order that success may be assured in the efforts of the various governments interested in the protection of the seals, it seems advisable to take the 15th of October instead of the 1st as the date of the close season, although, as I am now advised, the 1st of November would be safer.

The suggestion made by Lord Salisbury that it may be necessary to bring other governments than the United States, Great Britain, and Russia into the arrangement has already been met by the action of the Department, as I have heretofore informed you. At the same time the invitation was sent to the British Government to negotiate a convention for seal protection in Behring Sea, a like invitation was extended to various other powers, which have without exception returned a favorable response.

In order, therefore, that the plan may be carried out, the convention proposed between the United States, Great Britain, and Russia should contain a clause providing for the subsequent adhesion of other powers.

In regard to the suggestion of the Russian ambassador that the convention be made to cover the question of the sale of fire-arms and liquor to the natives on the coasts in question, I am compelled to think, while in favor of restricting or prohibiting such sale, that it would be advisable to regulate the subject separately from the protection of the seals. It is possible that some governments might readily assent to the latter object, while indisposed to accede to the former, and in that way lead to the defeat of the end first proposed by this Government.

I am, etc.,

T. F. BAYARD.

No. 86.

Mr. White to Mr. Bayard.

No. 767.]

LEGATION OF THE UNITED STATES,
London, June 6, 1888. (Received June 16.)

SIR: With reference to your instructions numbered 864, of May 1, and to previous correspondence, I have the honor to inclose herewith, for your information, a copy of Sir James Fergusson's reply to a question asked by Mr. Gourley in the House of Commons on the 4th instant, from which you will observe that the Canadian Government have cautioned persons engaged in sealing expeditions in Behring Sea against using force in the event of their being interfered with by our officers.

I have etc.,

HENRY WHITE.

[Inclosure with No. 767.]

SEAL FISHERY IN BEHRING SEA.

[Extract from The Times, Tuesday, June 5, 1888.]

In answer to Mr. Gourley, Sir J. Fergusson said: I am informed that the government of the Dominion have cautioned persons engaged in sealing expeditions in the Behring Sea from using force in the event of their being interfered with by the United States officers. The questions involved are the subject of consideration by the Governments of Her Majesty and the United States and it would not be convenient or usual to present the correspondence before it is concluded.

In answer to a further question from Mr. Gourley, Sir J. Fergusson said that the correspondence between Her Majesty's Government and the Government of the United States was being conducted diplomatically and in a friendly manner, and he deprecated any discussion upon the matter at present.

No. 87.

Mr. White to Mr. Bayard.

No. 786.]

LEGATION OF THE UNITED STATES,
London, June 20, 1888. (Received June 30.)

SIR: I have the honor to inform you that I availed myself of an early opportunity to acquaint the Marquis of Salisbury and the Russian ambassador of the receipt of your instructions numbered 864, of May 3, and shortly afterwards (May 16) his excellency and I called together at the foreign office for the purpose of discussing with his lordship the terms of the proposed convention for the protection of seals in Behring Sea. Unfortunately Lord Salisbury had just received a communication from the Canadian government stating that a memorandum on the subject would shortly be forwarded to London, and expressing a hope that pending the arrival of that document no further steps would be taken in the matter by Her Majesty's Government. Under these circumstances Lord Salisbury felt bound to await the Canadian memorandum before proceeding to draught the convention.

I have inquired several times whether this communication from Canada had been received, but it has not yet come to hand. I was informed to-day by Lord Salisbury that an urgent telegram had been sent to Canada a week ago with respect to the delay in its expedition, and that a reply had been received by the secretary of state for the colonies stating that the matter would be taken up immediately. I hope, therefore, that shortly after Mr. Phelps' return this Government will be in a condition to agree upon the terms of the proposed convention.

I have the honor to inclose for your information the copy of a question asked by Mr. Gourley and answered by Sir James Fergusson in behalf of the British Government with respect to the seal fishing in Behring Sea.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 786.]

SEAL FISHING IN BEHRING SEA.

[Extract from The Times, Tuesday, June 19, 1888.]

Mr. Gourley asked the under-secretary of state for foreign affairs whether it was true that the United States Government had officially announced the departure of the war ship *Dolphin* and three other armed vessels to the Behring Sea, with instructions to seize British or other vessels engaged in seal fishing in those waters; whether Her Majesty's Government had sent a war ship to warn masters of British sealing vessels of the consequences of infringing the Alaskan laws; and whether any of the vessels seized for alleged illegal fishing in 1886 and 1887 had been, as promised, released.

Sir J. FERGUSSON. In so far as Her Majesty's Government are aware no such announcement has been made by the United States Government, nor has any British ship of war been ordered to Behring Sea. Orders have been given by the United States Government that the three British vessels seized in 1886, with their tackle, apparel, and furniture, should be restored to their owners. The vessels in question were the *Onward*, *Caroline*, and *Thornton*. As regards the seizures in 1887, we have not heard that any of them have been released, but proceedings in connection with all the seizures are before the American law courts.

No. 88.*Mr. Bayard to Mr. Phelps.*

No. 948.]

DEPARTMENT OF STATE,
Washington, August 9, 1888.

SIR: I inclose herewith, for your information, a copy of a recent dispatch* from Mr. Hubbard, our minister at Tokio, relative to the recent action of the Japanese Government in requesting United States consuls in Japan to refrain from shipping Japanese subjects on otter-hunting vessels; and giving an account of the attack at Copper Island on the British schooner *Nemo*.

I am, etc.,

T. F. BAYARD.

No. 89.*Mr. Rives to Mr. Phelps.†*

No. 982.]

DEPARTMENT OF STATE,
Washington, October 23, 1888.

SIR: I inclose herewith, for your information, a copy of a dispatch to this Department from Mr. Stevens, our consul at Victoria, British Columbia, relative to the fur-seal industry, giving an account of the business for the season which has just closed.

I am, etc.,

G. L. RIVES,
Acting Secretary.

* See *infra*, No. 98.

† Identic instructions were sent to U. S. minister to Russia.

[Inclosure with No. 932.]

Mr. Stevens to Mr. Rives.

No. 374.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Victoria, British Columbia, October 8, 1888. (Received October 19.)

SIR: Within the last week all but one of the Victoria sealing fleet of fifteen vessels have arrived in port, having completed the season's cruise.

No unusual incident is mentioned save the seizure of the *Araunah*, belonging to Hall & Goepel, of this city, off Copper Island, July 1 last, by the *Alexander II*, belonging to the Alaska Commercial Company and floating the Russian flag, as stated by the public press in reporting the seizure. Messrs. Hall & Goepel have given me Captain Seward's statement, viz:

"That the *Araunah* was seized on the 1st of July, 6 or 8 miles from the shore of the southern extremity of Copper Island, by the Alaska Commercial Company's steamer *Alexander II*, floating a Russian flag (not the national flag of Russia, but a Russian flag of some kind—possibly a revenue flag). The Russian Inspector-General of the islands was on board the steamer at the time of seizure. The ground of seizure given was that Russia claims the sovereignty of the Behring Sea, and the inspector stated that he would have seized the vessel had she been even 100 miles further south. The *Araunah* was first taken to Vladivostock and then to Petropaulovski, where the Indian hunters were paid for their canoes, and at which port the *Araunah* now lies. Thence the crew were shipped by the Russian Government in a vessel to Nagasaki, where the captain noted protest. The British Board of Trade there forwarded them to Yokohama, to be taken by the steam-ship *Batavia* to Vancouver.

Apopos of this, on the 12th July last, a boat's crew from the *Nemo*, of Yokohama, was fired into from the shore off Atton Island by the Aleuts, the captain killed and two men wounded. This press print was attested as true by Mr. Gray, of Yokohama, yesterday.

The total catch of the Victorian sealers Mr. Lubbe gives at 14,897 seal and 152 otter skins; for the last season (1887) 30,200, including about 12,000 seized. Only five American sealers have reported here this season. They have had the same luck as the Victorians. There has been an unusual period of heavy weather and fog at the north. Seal skins are worth \$6.25; otter \$105.

I am, etc.,

ROBT. J. STEVENS,
Consul.

No. 90.

The whales in Hudson Bay.

An Ottawa letter to the Boston Herald says:

The Dominion Government is now considering the possibility of acting on the suggestion of Commander Gordon, in charge of the fishery protective service, and who has made several voyages to Hudson Bay to close the whale fisheries of Hudson Bay and Straits for a time, in view of the rapid depletion of this industry which has become apparent. The industry has almost entirely been carried on by New England whalers, and he suggests that, if they be allowed to continue, a heavy license for the privilege should be exacted. The New England whalers, it is reported, attack their prey with harpoons, explosive bombs, and lances, fired from large swivel guns carried on steam-launches, instead of the old-fashioned weapons thrown by hand from row-boats.

In giving his evidence, when this subject was brought up before a committee of the Senate this spring, Dr. Bell, of the Government geological staff, said that against such appliances as are now used by the New England whalers the whale has no chance to escape. It makes the capture much more certain, as the whalers can destroy life at once with the bomb and secure the animal. Thirty years ago the larger whales were quite common in the Gulf of St. Lawrence, but were driven north by the large fleet of New England vessels engaged in the trade. They are now rarely seen off the Newfoundland coast, or even in Hudson Straits, where at one time they abounded in great numbers. The use of fire-arms, which led to the complete extirpation of the buffalo, is now at work in the whale fishery, and, according to Dr. Bell's evidence, it is only a question of time when some of the species will become

totally extinct. On being asked to suggest some means by which the extermination of the whales might be prevented, Dr. Bell said:

"I think charging a high license to permit whaling—either charge it on the number of whales killed, the quantity of oil obtained, or so much a vessel—would decrease it. The Russian Government, I understand, claim jurisdiction over the whale fisheries of the White Sea, which is quite open as compared with Hudson Bay, Boothia Bay, and many of our large bays. They charge something like £300 a season for a permit for a vessel to kill whales, and if the whalers do not pay it they are driven out of those waters. Now, if the Russian Government can claim control over the whale fisheries of the White Sea, surely we can control Hudson Bay and Boothia Bay; and if the Americans can capture our sealers in Behring Sea, surely we can capture American whalers found in Hudson Bay and Boothia Bay."

JAPAN.

No. 91.

Mr. Hubbard to Mr. Bayard.

No. 387.]

UNITED STATES LEGATION,

Tokio, Japan, September 28, 1887. (Received October 24.)

SIR: I have the honor to inform the Department of State that I have submitted to the Japanese minister for foreign affairs the substance of your instruction No. 153, in relation to taking steps for the better protection of the fur-seal fisheries in Behring Sea by international co-operation, waiving all exceptional measures and exceptional marine jurisdiction that might be properly claimed for that end by the United States. In invoking the early and earnest consideration of the propositions of your instruction for the reasons given, and which are alike of practical commercial interest to Japan as well as to the other friendly powers designated as having been invited to enter into a similar arrangement with our Government, I have requested Count Ito to name at his pleasure some time in the future when we may discuss informally the reasons for and the terms and conditions of such arrangement for the protection of the seal-fur fisheries in Behring Sea as will safe guard that large marine interest against the lawless and indiscriminate slaughter of this animal, contributing so much to the wealth and general welfare of mankind. Due report will be made to the Department of State as the negotiations progress, which I hope and expect will be concluded favorably to all concerned.

I have, etc.,

RICHARD B. HUBBARD.

No. 92.

Mr. Hubbard to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,

Tokio, September 29, 1887. (Received September 29.)

Mr. Hubbard acknowledges the receipt of Mr. Bayard's instruction No. 153, of August 19, 1887, and requests, at the instance of the Japanese Government, copies of the Treasury regulations and contracts concerning the seal fisheries, and also a more definite statement as to the nature of the protection which it is desired to extend to those fisheries.

No. 93.

Mr. Hubbard to Mr. Bayard.

[Extract.]

No. 388.]

UNITED STATES LEGATION,
Tokio, Japan, September 29, 1887. (Received October 24.)

SIR: Referring to your instruction No. 153 I have already had the honor to inform the Department of State that I would seek a personal official conference with the minister for foreign affairs on the subject of the international protection of the fur-seal fisheries in Behring Sea.

The Japanese Government is anxious to enter into an arrangement or convention with the United States Government, invoking similar arrangement or convention with our Government for the protection of the fur-seal fisheries in the waters of their northern islands.

I expressly called attention to the waiver for this purpose, as expressed in your instruction No. 153, and in my dispatch No. 387, of any legal rights under former conventions; that my Government now desired to invite this co-operative protection of friendly powers of their fur-seal fisheries from wanton destruction without reference to said former conventions. Nevertheless, the Japanese Government requested as an especial favor that I would cable the Department of State, in order to save time, for certain documents mentioned in the subjoined cablegram, and for such specifications of said desired arrangement or convention as will be satisfactory and meet the wishes of my Government in that regard, and which might be reciprocally invoked for the protection of their own fur-seal fisheries.

I have, etc.,

RICHARD B. HUBBARD.

No. 94.

Mr. Bayard to Mr. Hubbard.

No. 156.]

DEPARTMENT OF STATE,
Washington, September 30, 1887.

SIR: The Department is glad to infer from your telegram of the 29th instant that the Government of Japan has favorably received the proposition of the United States to negotiate for the protection of the seal fisheries in Behring Sea.

A memorandum on the subject is now being prepared in reference to my suggestions and will be transmitted as soon as it is completed.

I am, etc.,

T. F. BAYARD.

No. 95.

Mr. Hubbard to Mr. Bayard.

No. 393.]

UNITED STATES LEGATION,
Tokio, Japan, October 10, 1887. (Received November 2.)

SIR: I have the honor herewith to inclose for the information of the Department of State, copies, respectively, of my note to Count Ito, and his reply thereto, relating to the fur-seal fisheries in Behring Sea.

I am requested to call the attention of my Government respectfully and especially to the proposed reciprocal protection of the sea-otter, and to enlarge the protected zone so as to embrace the known habitat of that animal.

I took occasion to say unofficially to Count Ito that I had no hesitation in giving him the hopeful assurance that my Government would co-operate with his excellency's Government in the proposal to include sea-otter as well as fur seal in any reasonable arrangement which would prevent unregulated and indiscriminate slaughter of this valuable animal in the waters of Behring Sea as well as on the coasts of Japan and in their conterminous waters. I shall have the honor to await, in deference to Count Ito's expressed request, your instructions in response to the respectful proposition of the Japanese Government before entering upon any formal negotiations on this subject. On receipt of this dispatch by the Department of State, I have the honor to suggest that if the reply to my cablegram of the 29th ultimo has been mailed to this legation by the Department, that in that end a brief telegram signifying your willingness to include the sea-otter in the said negotiations would advance the negotiations and gratify this Government as well, who manifests a deep interest in securing an early arrangement by our respective governments for the better protection of the fur-seal and sea-otter fisheries in American and Japanese waters.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure 1 in No. 393.]

Mr. Hubbard to Count Ito Hirobumi.

UNITED STATES LEGATION,
Tokio, October 6, 1887.

SIR: I have the honor herewith to forward to your excellency, and to beg your early and favorable consideration of, a copy of an instruction which I have had the honor to receive from the Department of State of my Government.

The general proposition respectfully submitted in this instruction by my Government, as well as the obvious and convincing reasons there set forth in favor of its adoption by the friendly powers named therein, will, I am sure, receive from your excellency's Government the same earnest consideration as they have received from the United States.

As already indicated unofficially to the foreign office, I shall, in furtherance of the wishes and instructions of my Government, be gratified and obliged if your excellency will formally appoint any future time and place when and where I may have the honor to confer and discuss with your excellency, or any other representative of His Imperial Majesty's Government, the subject of an arrangement or special convention between the United States of America and the Empire of Japan having reference to the better protection of the fur-seal fisheries in Behring Sea.

I avail, etc.,

RICHARD B. HUBBARD.

[Inclosure 2 in No. 393.—Translation.]

Count Ito Hirobumi to Mr. Hubbard.

No. 8584].

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokio, October 6, 1887.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 6th instant, in which you are pleased to inclose the copy of a communication from the honorable the Secretary of State in reference to the seal fisheries in Behring Sea, and, in pursuance of instructions contained in that dispatch, invite His Imperial Majesty's Government to enter into an arrangement with the Government of the

United States having for its object the protection of fur seals in Behring Sea from indiscriminate destruction and consequent extermination.

The unregulated and indiscriminate slaughter of the sea-otter as well as the fur seal on the coasts of Japan and in their conterminous waters is a subject which has for many years engaged the serious attention of the Imperial Government.

The experience of His Imperial Majesty's Government justifies the belief that the end sought to be obtained can be best secured by means of a co-operative international action, and they therefore cordially approve of the suggestion of the honorable the Secretary of State.

His Imperial Majesty's Government would be willing to enter into an arrangement for the purpose indicated, but they would wish, for the reasons assigned by Mr. Bayard in favor of the protection of the fur seal in Behring Sea, to extend the principle of protection to the sea-otter as well as the fur seal, and to enlarge the protected zone so as to embrace the known habitat of that animal.

I beg that you will bring this proposal to the attention of the Government of the United States, and I would suggest that this be done in advance of any negotiations on the subject.

I avail myself, etc.

COUNT ITO HIROBUMI.

No. 96.

Mr. Bayard to Mr. Hubbard.

No. 171.]

DEPARTMENT OF STATE,
Washington, November 21, 1887.

SIR: I have to acknowledge the receipt of your dispatches Nos. 388 and 393, dated, respectively, September 29 and October 10, and in reply to express the satisfaction of this Department at the favorable response of the Japanese Government to negotiate for the protection of the seal fisheries in Behring Sea.

The Department hopes to be able, at an early day, to instruct you further on the subject. At present, owing doubtless to the shortness of the time, few replies have been received from foreign governments to the circular invitation of the United States in this regard. And it is thought desirable to await for a time further responses, which might affect the course of the negotiations.

I am, etc.,

T. F. BAYARD.

No. 97.

Mr. Hubbard to Mr. Bayard.

No. 483.]

UNITED STATES LEGATION,
Tokio, Japan, June 23, 1888. (Received July 16.)

SIR: Respectfully referring to the correspondence between the Department of State and this legation, looking to the conclusion of a convention between Japan and the United States and some other powers for the protection of the fur-seal fisheries in Behring Sea, and the protection of the sea-otter, as subsequently suggested by Japan, I have the honor to inform the Department that instruction No. 171, of November 21, 1887, which has heretofore been acknowledged, is the last that has been received by me from the Department on this subject.

I desire to inform the Department that the Japanese foreign office has in a friendly spirit of inquiry asked if I could furnish information as to when my Government would be ready (as Japan had been ready for some time past) to resume the consideration of the proposed convention.

I have, in response to this inquiry, forwarded to the foreign office a copy of your said instruction No. 171, dated November 21, 1887, with the accompanying note, dated June 20, transmitting the same. The Japanese minister for foreign affairs has been recently advised by the Russian minister to Japan that the United States Government and those of Russia and Great Britain had discussed, at London, the matter of a similar convention for the protection of the fur-seal fisheries and sea-otter in Behring Sea. He also communicated the fact that the Government at St. Petersburg desired to conclude with Japan a convention for the mutual protection of the seal and otter within their own seas and contiguous waters.

This fact has been the immediate cause of the inquiry submitted to me, to which the inclosure herewith is in response.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure in No. 483.]

Mr. Hubbard to Count Okuma.

No. 284.]

UNITED STATES LEGATION,
Tokio, June 20, 1888.

SIR: Referring to my note to his excellency Count Ito, dated October 6, 1887, and his reply thereto dated November 8, 1887, concerning a proposed arrangement which the United States invited Japan to enter into with the United States and certain other powers, for the protection of the fur seals in Behring Sea from indiscriminate destruction and consequent extermination, I have now the honor to inclose an instruction* from my Government in response to my dispatch to the honorable the Secretary of State, informing him of Japan's willingness to enter such an arrangement.

It will be observed by your excellency that my Government is awaiting the replies of some other foreign governments to the invitation of the United States to enter into such a convention.

I have not communicated with your excellency's department since my note of the 6th of October, on account of awaiting further instructions from my Government in the premises, to which the instruction herewith inclosed especially refers. The substance of the inclosed instruction has not been heretofore communicated to your excellency's Government, hoping that I might, as indicated, ere now have been furnished with final instructions to conclude a convention between our respective governments, embracing all the points of discussion on which a common and friendly concurrence and understanding had been reached and of which my Government was advised in my dispatches to which the inclosed instruction is in response.

I avail myself, etc.,

RICHARD B. HUBBARD.

No. 98.

Mr. Hubbard to Mr. Bayard.

No. 491.]

UNITED STATES LEGATION,
Tokio, Japan, July 13, 1888. (Received August 8.)

SIR: I have the honor to inclose herewith a copy of a note from the Japanese minister for foreign affairs dated July 7, in which I am requested to instruct the United States consuls in Japan not to ship Japan-

* See *supra*, No. 96.

ese subjects on board American vessels engaged or about to engage in otter or seal hunting.

The reasons for such a request are set forth in the minister's note.

In compliance with Count Okuma's request, I have instructed the United States consul-general at Kanagawa, and through him the other consular representatives of the United States in Japan, to refrain from shipping any Japanese subjects on any American otter or seal hunting vessels.

I have the honor to inclose a copy of my communication to the United States consul-general on the subject, and hope that my action in the premises will meet the approval of the Department of State.

In order that the Department may more fully understand the immediate causes which have led the Japanese Government to take the course indicated in regard to the shipment of Japanese subjects on otter and seal hunting vessels, I beg to submit a brief account of the attack on the British schooner *Nemo*, to which Count Okuma refers:

The *Nemo* is a schooner of 150 tons, owned and commanded by one Snow, a British resident of Yokohama, and was manned by Japanese sailors. The schooner is what is known as an "otter and seal hunter."

On the 27th of May last, while the schooner was en route to the hunting grounds, it was, according to the commander's statement, becalmed off Copper Island (Russian territory). Early on the morning of May 27, while the schooner was still becalmed, the commander put off in a boat with a crew of six Japanese sailors, accompanied or followed by two other boats of Japanese sailors. The commander of the *Nemo* was the only foreigner in the boats. When about 200 yards from shore, and after the commander of the *Nemo* had discharged his rifle at one or more otters, his boat was fired upon by an unknown number of men concealed behind the rocks or a bluff of the shore, and using, as the commander of the *Nemo* supposes, Winchester rifles.

The firing was kept up with great rapidity, and all of the men in the boat, including the commander, being wounded, it was with great difficulty that the boat was gotten out of reach of the firing, the commander and one sailor being the only occupants of the boat who were able to propel it, and being both wounded, the craft moved very slowly.

When the commander's boat got out of range of the firing (the second boat had one man wounded, but the third had not approached within range of the firing), it was ascertained that one of the Japanese had been killed outright, and two others afterwards died on the *Nemo* from the wounds then received.

The commander was wounded in the hand and in the thigh, but he and the other Japanese who were wounded have, I understand, about recovered.

The schooner was brought to Yokohama, where an inquiry into the affair was held by the British consul, who found that the attack was unprovoked.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure 1 in No. 491.—Translation.]

Count Okuma to Mr. Hubbard.

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokio, the 9th day, the 7th month, the 21st year of Meiji.

SIR: The recent attack at Copper Island upon the British schooner *Nemo* (with the circumstances and results of which you are doubtless familiar), coupled with the fact that the unlicensed taking of otter and seal within the jurisdiction of His Im,

perial Majesty is prohibited by law, has impressed upon the Imperial Government the necessity of adopting more effectual measures on the one hand to protect His Imperial Japanese Majesty's subjects from the consequences of acts for which as seamen they could hardly be held responsible, and on the other to put a stop to an unlawful occupation.

With these objects in view, I have the honor to request that you will instruct the consuls of your country in Japan to refrain, until otherwise advised, from shipping Japanese subjects on board any American vessels engaged or about to engage in otter or seal hunting.

I avail, etc.,

COUNT SHIGENOBU OKUMA.

[Inclosure 2 in No. 491.]

Mr. Hubbard to Mr. Greathouse.

UNITED STATES LEGATION,
Tokio, July 12, 1888.

SIR: I have to inclose for your information and observance and guidance a copy of a note from the Japanese minister for foreign affairs, in which as the diplomatic representative of the United States, I am requested to instruct consular representatives of the United States resident in the Empire to refrain, until further notice, from shipping Japanese subjects on board any American vessel engaged or about to engage in otter or seal hunting.

This action, as the minister for foreign affairs states, has been occasioned by the "necessity of adopting more effectual measures on the one hand to protect His Imperial Japanese Majesty's subjects from the consequences of acts for which as seamen they could hardly be held responsible, and on the other to put a stop to an unlawful occupation."

In view of the fact that the United States Government recognizes the exclusive jurisdiction of all governments over their own subjects, and in view of the extra-territorial jurisdiction in the open ports of Japan, by which Japan has no means of enforcing the observance of its laws by masters of American vessels, I deemed it proper, under the comity of nations—a comity which the United States has shown to Japan in causing the observance of Japanese quarantine regulations and in other instances—to instruct you to observe the request of the Japanese Government in this particular; and you will therefore refrain, until further notice, from shipping Japanese subjects on board any American vessel engaged or about to engage in otter or seal hunting.

You are further instructed to forward a copy of this communication, together with a copy of the note from the minister for foreign affairs, to each of the United States consuls at Osaka and Hiogo and Nagasaki, with instructions that they will observe the same.

I am, etc.,

RICHARD B. HUBBARD.

No. 99.

Mr. Hubbard to Mr. Bayard.

No. 492.]

UNITED STATES LEGATION,
Tokio, Japan, July 13, 1888. (Received August 8.)

SIR: Referring to the correspondence which has taken place between the Department of State and this legation concerning a proposed convention between the United States and Japan and some other powers, looking to the protection of the fur-seal fisheries in Behring Sea, I have the honor to inclose a copy of a note, dated July 9, from the Japanese minister of foreign affairs, inquiring as to the nature of the consultation now being conducted at London on this subject, with a view of instructing the Japanese minister at London to take part in said consultation provided it has assumed the nature of an international conference

in which the views of the several powers interested may be interchanged.

The note from Count Okuma and my reply to the same, also herewith inclosed, fully explain themselves, and are forwarded to the Department with the view of eliciting such reply as may be desired advisable in the premises.

There is no doubt that the *Nemo* affair, to which I had the honor to refer in my dispatch No. 491 of this date, has had the effect of increasing Japan's interest in the proposed convention and her desire to see it concluded at an early day.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure 1 in No. 492—Translation.]

Count Okuma to Mr. Hubbard.

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokio, the 7th day, the 7th month; the 21st year of Meiji.

SIR: With reference to the proposal of your Government to enter into a proper arrangement for the purpose of preventing by international co-operation indiscriminate and unregulated destruction of fur seals in the Behring Sea, the views of the Imperial Government having been communicated to you, your Government intimated that they would approach the subject again upon receipt of responses from the powers consulted, and consequently the Imperial Government have been awaiting further communication from your Government.

In the mean time it has recently been reported to the Imperial Government that the United States minister at London is holding consultation with Her British Majesty's principal secretary for foreign affairs and the diplomatic representatives of some other power or powers interested in respect to certain matters bearing upon the subject.

The Imperial Government are not aware of the nature of the question under discussion. If, however, the negotiation has actually assumed the character of an international convention, in which the views of the several powers interested may be formally interchanged, the Imperial Government would desire to instruct their representative at London to take part in such negotiation.

I therefore beg leave to request that you will be so good as to ascertain the truth of the report and to communicate to me the result of your inquiry.

I avail myself, etc.,

COUNT SHIGENOBU OKUMA.

[Inclosure 2 in No. 492.]

Mr. Hubbard to Count Okuma.

UNITED STATES LEGATION,
Tokio, July 12, 1888.

SIR: I have the honor to acknowledge the receipt of your excellency's note No. 25, of the 7th instant, in which, referring to the subject of the proposed arrangement between the Governments of the United States and Japan and some other powers, looking to the protection of the fur-seal fisheries in Behring Sea, your excellency informs me that it has been reported to the Imperial Government that the United States minister at London is holding consultation with Her British Majesty's principal secretary for foreign affairs and the diplomatic representatives of some other powers interested, in respect to certain matters bearing upon the subject. Your excellency further states that if the negotiations have assumed the character of an international conference, in which the views of the several powers interested may be formally interchanged, the Imperial Government would desire to instruct their representative at London to take part in such negotiations; and you request me to ascertain the truth of the report referred to, and to communicate the result of my inquiry to your department.

In reply I have the honor to say to your excellency that by the mail leaving for the United States on or about June 20 I had the honor, as suggested by the verbal and

informal inquiry of the foreign office, to address a dispatch to the honorable the Secretary of State of my Government, requesting to be advised of the present status of the negotiations of the proposed convention; and in pursuance of the subject I will by the next mail leaving for the United States forward a copy of your excellency's note, with the request that my Government will furnish me with full information respecting the progress of the negotiations.

In this connection I beg to say to your excellency that I have been informed informally and unofficially by the representatives at Tokio of one of the powers interested in the said negotiations, that he was in receipt of information to the effect that the consultation now being conducted at London is of a purely preliminary character.

I am fully persuaded that the consultation to which your excellency refers is of the same nature as has already taken place between the United States minister at Tokio and the Japanese foreign office; and I beg to repeat to your excellency what I have already had the honor to assure your Department on previous occasions, that a final decision will not be reached in this matter of the proposed convention until the Imperial Government has been fully advised and has had ample opportunity to express its views in the premises.

I avail, etc.,

RICHARD B. HUBBARD.

No. 100.

Mr. Bayard to Mr. Hubbard.

No. 223.]

DEPARTMENT OF STATE,
Washington, July 18, 1888.

SIR: I have received your No. 483 of the 23d ultimo, saying that the Japanese minister for foreign affairs had informally inquired of you lately concerning the proposed convention between the United States and Japan, looking to the protection of fur seals in Behring Sea, which formed the subject of my instruction No. 171 of November 21, 1887.

Negotiation with Japan in reference to the protection of the seals in Behring Sea has been delayed by the unexpected protraction of the negotiation with Great Britain and Russia. It is thought desirable that the arrangement between these countries should be permitted to assume a definite and settled form before other agreements are formulated. It is hoped that the matter will soon be in such shape as to permit the entrance upon formal negotiations with Japan.

In the mean time, however, the question might be informally discussed with the Japanese Government, with a view to ascertain just what is desired of the United States in regard to the protection of the sea-otter.

I am, etc.,

T. F. BAYARD.

No. 101.

Mr. Bayard to Mr. Hubbard.

[Confidential.]

No. 232.]

DEPARTMENT OF STATE,
Washington, August 9, 1888.

SIR: I have to acknowledge the receipt of your No. 492, of the 13th ultimo, in which you transmit a copy of a note from Count Okuma, minister for foreign affairs of Japan, of the 7th ultimo, in which he

S. Ex. 106—8

states the desire of his Government to instruct its representative in London to take part in the negotiations there pending between the Government of the United States and that of Great Britain, for a convention for the protection of seals in Behring Sea, provided the negotiations have reached a stage which would admit of such participation.

In reply you promised his excellency that you would request your Government to furnish you with full information respecting the progress of the negotiations.

No change is known to have taken place in the state of the negotiations at London since the Department last wrote you on the subject. Four months ago strong hopes were entertained here that the convention would soon be concluded. But the Department is now informed that the views of Her Britannic Majesty's minister for foreign affairs have met with obstruction from Canada, where vessels are yearly fitted out for the purpose of preying upon seal life by the use of fire-arms and other destructive weapons.

It is not perceived, therefore, how the participation of Japan in the negotiations at London could promote their successful conclusion. There is not known to be any difference of opinion between this Government and that of Her Britannic Majesty as to the necessity and propriety of the international arrangement, now under consideration, for the protection of the seals in Behring Sea.

The convention which Japan will seek to make on the same subject will, as you have indicated, have to be shaped in some respects so as to meet the wishes of Japan in regard to the protection of her interests in the sea-otter. What this Government deems necessary for the preservation of the seals in Behring Sea is entirely to prohibit the slaughter of them with fire-arms, nets, and other destructive implements, at a distance from the coasts. The Department would be glad to learn the views of the Japanese Government concerning the measures necessary for the protection of its interests in the otter, and to be furnished with information respecting their territorial and pecuniary extent.

I am, etc.,

T. F. BAYARD.

RUSSIA.

No. 102.

Mr. Wurts to Mr. Bayard.

No. 139.]

LEGATION OF THE UNITED STATES,

St. Petersburg, September 3, 1887. (Received September 17.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 99, of the 19th of last month, relating to the measures to be taken for the better protection of the seal fisheries in Behring Sea, and to inform you that, in obedience to it, I have communicated the invitation of the Government of the United States to that of Russia, to enter into such an arrangement as will put a check to the indiscriminate destruction, by the citizens of either country, of the seals in those waters.

I am, etc.,

GEORGE W. WURTS.

No. 103.

Mr. Lothrop to Mr. Bayard.

No. 151.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 8, 1887. (Received December 27.)

SIR: I have the honor to transmit herewith the translation of a note from the foreign office, received at the legation yesterday, on the proposition of the United States for an international agreement touching the capture of seals in Behring Sea. The earnestness felt here in the matter is plainly indicated by the language of the note, which speaks of unrestrained seal hunting as a thing which not only threatens the well-being but even the existence of the people of the extreme northeast coast.

This language represents a view which I have heard here in conversation, of course not officially, and which is substantially as follows:

The seal fishery on our Behring coasts is the only resource our people there have; it furnishes them all the necessities of life; without it they perish. Now international law concedes to every people exclusive jurisdiction over a zone along its coasts sufficient for its protection; and the doctrine of the equal rights of all nations, on the high seas, rests on the idea that it is consistent with the common welfare and not destructive of any essential rights of the inhabitants of the neighboring coasts. Such common rights, under public law, rest on general consent, and it would be absurd to affirm that such consent had been given, where its necessary result would be the absolute destruction of one or more of the parties. Hence, the rule can not be applied blindly to an unforeseen case, and these alleged common rights must rightfully be limited to cases where they may be exercised consistently with the welfare of all. Behring Sea partakes largely of the character of an inclosed sea; two great nations own and control all its inclosing shores. It possesses a peculiar fishery, which, with reference to its preservation, can only be legitimately pursued on land, and even there only under strict regulations. To allow its unrestrained pursuit in the open waters of the sea is not only to doom it to annihilation, but, by necessary consequence, to destroy all its coast inhabitants. If this result is conceded, it follows that the doctrine of common rights can have no application to such a case.

I have thought it might not be uninteresting to give this as a view which has found expression here, and, if found necessary, I think it not improbable that Russia would feel that she was driven to act on it.

I am, etc.,

GEO. V. N. LOTHROP.

[Inclosure in No. 151.—Translation.]

M. de Giers to Mr. Lothrop.

MINISTRY OF FOREIGN AFFAIRS,
Asiatic Department, November 25, 1887.

MR. MINISTER: Mr. Wurts, under date of August 22 [September 2], was good enough to communicate to me the views of the Government of the United States of America upon the subject of the desirableness of an understanding, among the Governments concerned, for the regulation of the taking (*la chasse*) of the fur seal (*loutres*) in the Behring Sea, in order that an end might be put to those inconsiderate practices of extermination which threaten to dry up, at their source, an important branch of international commerce.

We concur entirely in the views of the Government of the United States. Like it, we also have been for a long time considering what means could be taken to remedy a state of things which is prejudicial not only to commerce and to revenue, but which will not long delay to work disastrous results, not only to the well-being but even to the existence of our people in the extreme northeast. The establishment of a reasonable rule, and of a lawful system in the use (*Exploitation*) of the resources, which furnish their only industry, is for those people of vital importance.

The pressing interest which the imperial Government has been thus called to consider had already suggested to it the idea of an international agreement, by which this interest might find its most efficient protection. It is by this way that the different questions involved can be best resolved, and among which there exists, in our opinion, a close connection.

The proposition of an accord emanating from the Government of the United States, and which we take pleasure in considering as a step towards that general solution, must, of course, but meet the sincere sympathies of the imperial Government, and its active support, and this I pray you to make known to the Cabinet at Washington.

Please receive, etc.,

GIER.

No. 104.

Mr. Lothrop to Mr. Bayard.

No. 161.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 22, 1888. (Received March 12.)

SIR: Your dispatch, No. 110, relative to the protection of fur-bearing seals in the Behring Sea, has just reached me, and I have lost no time in making known to the imperial Government your wishes respecting the co-operation of the Russian ambassador in London with Mr. Phelps on this subject.

Very truly, etc.,

GEO. V. N. LOTHROP.

No. 105.

Mr. Lothrop to Mr. Bayard.

No. 164.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 12, 1888. (Received April 2.)

SIR: Immediately upon the receipt of your dispatch, No. 110, I communicated to Mr. de Giers the suggestions therein contained. In reply he now informs me that the imperial Government, acting thereon, has instructed Mr. de Staal, its ambassador in London, at once to put himself into communication with Mr. Phelps, and to do his best to promote the common object of the two Governments. I am also requested to make this action known to you.

Very truly, etc.,

GEO. V. N. LOTHROP.

SWEDEN AND NORWAY.

No. 106.

Mr. Magee to Mr. Bayard.

No. 118.]

LEGATION OF THE UNITED STATES,
Stockholm, March 20, 1888. (Received April 9.)

SIR: I am in receipt this p. m. of the response to my note (written under your instruction of date September 17, 1887), inviting the Government of the United Kingdoms to join in an arrangement whereby an end would be put to the indiscriminate killing of seals in the Behring Sea.

The royal Government having no interest in seal fisheries, His Majesty thinks there is no need to take part in any treaty or arrangement in reference thereto on the part of the United Kingdoms. He however expresses the desire that a mutually beneficial accord may be arrived at between the interested powers, and that the same may be maintained with a reservation that powers not at present interested may join in such an arrangement in the future if they desire.

At present neither Sweden nor Norway engages in seal fishing in Behring Sea or adjacent waters.

I have, etc.,

RUFUS MAGEE.

PART III.

CANADIAN CORRESPONDENCE RELATIVE TO THE SEIZURE OF BRITISH SAILING-VESSELS IN BEHRING SEA (REPRINTED FROM CANADIAN DOCUMENTS).

No. 107.

Sir L. West to Lord Iddesleigh.

WASHINGTON, September 21, 1886.

My LORD: The reported seizure of British vessels by American cruisers in waters over which it appears the United States Government claim jurisdiction, as adjacent to the Territory of Alaska, has given rise to much comment in the newspapers touching the interests of a powerful commercial company which may be affected by the international questions arising therefrom, and in this connection I have the honor to inclose to your lordship, herewith, a *précis* of the history of the origin of this company, as well as of what has been written on the subject.

Chapter 3 of the Revised Statutes of the United States (p. 342, sections 1954 to 1976, inclusive) contains the "provisions relating to the unorganized Territory of Alaska," and section 1954 extends "the laws of the United States to and over all the main-land, islands, and water of the Territory" ceded by Russia to the United States by the treaty of 1867.

In addition to the case of the Government seal islands, the Alaska company holds as well leases of certain islands from the Russian Government, so that, in fact, it may be said to monopolize the seal fur in these waters.

I have, etc.,

L. S. SACKVILLE WEST.

The EARL OF IDDESLEIGH, G. C. B., ETC.

[Inclosure.]

History of the origin of the Alaska Commercial Company.

The transfer of the Territory of Alaska to the United States Government, in compliance with the terms of the treaty of purchase between the two Governments, included the transfer of all the Russian Government (property), such as public buildings at Sitka, governor's house, custom-house, hospital, and wharves, etc. There

were, however, certain buildings reserved as the property of the Russian Fur Company, and as General Rousseau, the United States commissioner, could not, in his official capacity, take any active or open part in its disposal, Prince Matsukoff, the Russian governor, concluded a bargain with Mr. Hutchinson, who accompanied General Rousseau as his private secretary. This bargain included all the property of the Russian Fur Company and the American officers stationed at Sitka, who claimed that they were entitled to a share of the spoils. By virtue of this bargain with Prince Matsukoff, who was governor of the company, Mr. Hutchinson proposed to take possession of the fur trade of Alaska and the seal islands, (and) left for Victoria (British Columbia) and San Francisco to make the necessary arrangements.

At the former place he met with a Mr. Kohl, owner of a British steamer, called the *Fideliter*, with whom he entered into partnership, and the firm still exists under the name of Hutchinson, Kohl & Co.

The steamer obtained an American register, under the plea that she was a Russian vessel at the time of the transfer of the Territory to the United States, and was thus enabled to carry on the coasting trade.

Preparations were made in 1868 for working the fur trade of the newly-acquired possession, and especially for the occupation of the Pribylor Island, to which, by virtue of the arrangements with Prince Matsukoff, the new company considered they had an exclusive right. Upon their arrival there, however, they found them occupied by experienced sealers from New London and Stonington, Conn., under one Captain Morgan. A fight for possession seemed imminent, but a division of the season's catch was finally agreed upon. While the two parties were thus amicably at work, Mr. Pflugel, Russian vice-consul at Honolulu, arrived at the head of an expedition, believing that he should find the islands unoccupied, but was eventually forced to retire before the combined forces of Captain Morgan and Mr. Hutchinson.

It now became obvious that the Government must take means to preserve these valuable seal rookeries, and in the winter of 1868 an act of Congress was passed, the conditions for permission to take seals being, however, reserved for future Congressional action. The coalition between Hutchinson and Morgan still continued, and finally led to the organization of the powerful and wealthy Alaska Commercial Company. Since 1870 this company has controlled the entire fur trade of Alaska, and by virtue of its alliances with the lessees of the Russian seal islands controls the valuable fur-seal trade of the world. With strong political influence in the Congress of 1876, it obtained a lease of the Pribylor Islands for twenty years, at a rental of \$55,000 a year and a royalty of \$2.62 per skin, the take to be limited to 100,000 skins a year. It is calculated that the company pays annually \$315,000 to the United States Treasury, which, after paying all the expenses of the Territory, yields more than 4 per cent. per annum on the purchase-money paid to Russia for Alaska.

To preserve this revenue through future years, the protection of the seals from illegal capture or disturbance on their annual visits to the islands has been deemed an absolute necessity, and hence the prohibition against approaching or landing on the islands, and the vigilance of the United States cruisers in the Behring Sea. It is not, however, generally understood that the Alaska Company controls the fur trade of all the main-land and islands of Alaska lying west of the 141st meridian of west longitude, and that its operations over this vast extent of territory and coast are entirely distinct from and have no connection with its exclusive control of the seal islands, which it holds by virtue of its lease from the United States Government.

Outside of these islands it holds no exclusive rights or franchise from the Government, nor does it pay any rent or royalty to the Government or the territory it occupies or the furs it procures from the natives. It has no rights over any other citizen or company of citizens who may desire to trade in competition with it, and yet it has been aided by the Revenue Marine in suppressing competition from rival traders; for it appears that under instructions from the Treasury Department the revenue cruisers board and examine every trading vessel sighted in the Behring Sea or on the northwest coast of Alaska, except the vessels of the company. If a pretext can be found, an officer is placed on board with instructions to take the vessel to Ounalaska and discharge her cargo. She is then sent to San Francisco, where the United States marshal finds that there is no cause for condemnation, and, as the object of breaking up her voyage has been gained, she is released and restored to her owners. The vessels subjected to this treatment come from British Columbia and Japan, and are, it is said, fitted out for contraband trade.

WASHINGTON, September, 1886.

No. 108.

The Administrator to Mr. Stanhope.

HALIFAX, September 27, 1886.

SIR: I had the honor to send you a telegraphic message on the 22d instant, of which the following is the substance:

The Canadian schooners *Thornton*, *Onward*, and *Carolena* were seized on the 1st of August in Behring Sea by the United States cutter *Corwin*. The captain and mate of the *Thornton* were tried in the district court of the United States at Sitka on the 30th of August. It was attempted to show that the *Thornton* was seized for killing seal about 70 miles SSE. of St. George's Island, within that portion of Behring Sea ceded by Russia to the United States.

The judge, in charging the jury, quoted article 1 of the treaty of March 30, 1867, between the United States and Russia, and affirmed that all waters within the boundary set forth in the treaty to the western end of the Aleutian Archipelago and islands were to be deemed American, and that the penalties of the law against the killing of fur-bearing animals were to attach to its violation within the limits in question. The jury were told, if they believed the evidence as to the killing of any fur-bearing animals by the accused on the Alaskan coast or in Behring Sea east of the 193d degree of west longitude, to find them guilty.

The prisoners were found guilty. The master of the *Thornton* was fined \$500 and sentenced to imprisonment for thirty days. The mate was fined \$300 and sentenced to thirty days' imprisonment. The officers of the other two vessels were also tried and similar penalties imposed upon them.

The Government of Canada protests against the claim of the United States to the sole sovereignty over Bering Sea 700 miles east of the westerly boundary of Alaska, defined by the above-mentioned article 1 of the treaty of March 30, 1867, as contrary to the admitted principles of international law, and also in opposition to the United States contention concerning common waters on the coast of the Atlantic. It protests also against the unwarranted and arbitrary interference of the authorities of the United States with the peaceable and lawful occupation on the high seas of Canadian citizens, as well as against the forfeiture of their property and the indignity of imprisonment which have been imposed upon them. The foregoing facts have also been communicated to Sir Lionel West.

I have, etc.,

A. G. RUSSELL,
Administrator.

Rt. Hon. EDWARD STANHOPE.

No. 109.*The administrator to Mr. Stanhope.*

HALIFAX, NOVA SCOTIA, September 27, 1886.

SIR: I have the honor to inclose herewith a copy of an approved minute of my privy council, to which is appended a report by my minister of marine and fisheries, upon which my telegram of the 22d instant

was founded, relative to the seizures of the Canadian schooners *Thornton*, *Onward*, and *Carolina* while engaged in the peaceable pursuit of their lawful occupation on the high seas.

(2) It will be seen from this report that the masters and mates of the above-mentioned vessels have been tried before the United States district court at Sitka, in Alaska, and sentences of imprisonment, in addition to heavy fines imposed upon them, while their property has been subjected to forfeiture.

(3) My ministers are of the opinion that the action of the United States authorities with respect to these vessels is indefensible, and that immediate reparation should be demanded from the Government of that country therefor.

(4) I have communicated a copy of this minute and the appended report to Her Majesty's minister at Washington.

I have, etc.,

A. RUSSELL,
Administrator.

Rt. Hon. EDWARD STANHOPE, etc.

[Enclosure.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the administrator of the governor in council on the 24th September, 1886.

The committee of the privy council have had before them the annexed report from the minister of marine and fisheries, with reference to the case of the Canadian schooners *Thornton*, *Onward*, and *Carolina* seized on the 1st of August last by the United States authorities in Behrings Sea.

The committee concur in the said report, and they advise that the same be carried out.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

DEPARTMENT OF FISHERIES, CANADA,
Ottawa, 21st September, 1886.

In reference to a report of council under date 23d September, referring to the case of Canadian schooners *Thornton*, *Onward*, and *Carolina*, seized on August 1st by the United States authorities in Behrings Sea, the undersigned has the honor to lay before council the following additional information:

It is stated in effect in the Alaskan, a newspaper published at Sitka, in the Territory of Alaska, and bearing date 4th September, 1886:

(1) That the master and mate of the schooner *Thornton* were brought for trial before Judge Dawson in the United States district court at Sitka on the 30th August last.

(2) That the evidence given by the officers of the United States revenue-cutter *Corwin* attempts to show that the *Thornton* was seized while in Behrings Sea about 60 or 70 miles SSE. of St. George Island, for the offense of hunting and killing seals within that part of Behrings Sea which was ceded to the United States by Russia in 1867.

(3) That the judge, in his charge to the jury, after quoting the first article of the treaty, 30th March, 1867, between Russia and the United States, in which the western boundary of Alaska is defined, goes on to say: "All the waters within the boundaries set forth in this treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits before described."

"If, therefore, the jury believe from the evidence that the defendants by themselves or in conjunction with others did, on or about the time charged in the information, kill any otter, mink, martin, sable, or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska or in the Behrings Sea, east of the 193rd degree of west longitude, the jury should find the defendants guilty and assess their punishment separately at a fine not less than \$200 nor more than \$1,000, or imprisonment not more than six months, or by both, such fine within the limits herein set forth and imprisonment."

(4) That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the *Thornton*, Hans Guttormsen, was sentenced to imprisonment for thirty days and to pay a fine of \$500, and the mate of the *Thornton*, Norman, was sentenced to imprisonment for thirty days and to pay a fine of \$300, which terms of imprisonment are presumably now being carried into effect.

It also appears by telegraphic dispatch from Nanaimo, British Columbia, dated 18th September, that the masters and mates of the *Onward* and *Carolina* have since been tried and sentenced to undergo similar penalties to those being inflicted on the master and mate of the *Thornton*.

It will appear from the above information, conjoined with the report of council under date September 23rd inst., that the United States have determined to lay claim to the sole sovereignty of that part of Behrings Sea lying east of the westerly boundary of Alaska, as defined in the first Article of the Treaty made between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly from the mainland of Alaska.

In pursuance of this claim they have interfered with the peaceable and lawful occupation of Canadian citizens on the high seas, have taken possession of their ships, have subjected their property to forfeiture, and visited upon their persons the indignity of imprisonment. They appear to have done this in spite of the admitted principles of international law, and in direct opposition to their own contention of what constitutes common waters upon the Atlantic coast.

In view of the unwarranted and arbitrary action of the United States authorities, the undersigned recommends that a copy of this report be sent to Her Majesty's Government, to the end that immediate reparation be demanded from the Government of the United States, and that in the mean time the facts contained therein be telegraphed to the Secretary of State for the Colonies and to the British minister at Washington.

The whole respectfully submitted.

GEORGE E. FOSTER,
Minister of Marine and Fisheries.

No. 110.

The administrator, to Mr. Stanhope.

HALIFAX, September 27, 1886.

SIR: I have the honor to forward herewith, for transmission to the foreign office, a copy of an approved report of the committee of the privy council, submitting depositions from some of the officers and men of the Canadian schooners *Onward*, *Thornton*, and *Carolina*, relative to the seizure of those vessels in Behring Sea by the United States revenue-cutter *Corwin*, and their subsequent detention at the Port of Ounaska, in the Territory of Alaska.

(2) You will observe from the accompanying papers that it appears that the schooners mentioned are Canadian vessels, fitted out in Victoria, B. C., for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands and Alaska, and that at the time of the seizure by the *Corwin*, on the 1st August last, they were taking seals in the open sea at a distance of more than 60 miles from land.

(3) My minister of marine and fisheries has taken steps to get further depositions from the owners, masters, and crews of the above-mentioned vessels, in order that a claim may be made upon the United States Government for damages, for the unwarranted seizure of British vessels on the high seas.

(4) I have communicated a copy of this order in council, with the accompanying papers, to Her Majesty's minister at Washington.

I have, etc.,

A. RUSSELL,
Administrator.

Rt. Hon. EDWARD STANHOPE.

[Inclosure 1.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the administrator of the government in council on the 23d day of September, 1886.

On a report dated 18th September, 1886, from the minister of marine and fisheries, submitting the accompanying papers relative to the seizure of the Canadian schooners *Onward*, *Thornton*, and *Carolina* in Behring's Sea by the United States revenue-cutter *Corwin*, and their subsequent detention at the port of Oonalaska, in the Territory of Alaska.

Copy of a letter from James Ogilvie, master of the Canadian sealing schooner *Carolina*.

Copy of a letter from Daniel Munroe, master of the Canadian sealing schooner *Onward*.

Depositions of John Dallas, seaman on board the *Thornton*; of Thomas McLardy, cook on board the *Carolina*; of Edward Shields, seaman on board the *Carolina*; and of Wm. Munsie, owner of the *Carolina*; all of the province of British Columbia.

The minister observes, that from these papers it appears that the schooners mentioned are Canadian vessels, fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands, and Alaska; that at the time of their seizure by the *Corwin* they were taking seals in the open seas, out of sight of land, the *Carolina* in lat. 55° 50' N., long. 168° 53' W., the *Onward* in lat. 54° 52' N., long. 167° 55' W., and the *Thornton* in about the same latitude and longitude, and all of them at a distance of more than 60 miles from the nearest land; that they were taken possession of by the United States cutter on August 1st, 1886, and towed to the port of Oonalaska, where they are still detained. The crews of the *Thornton* and *Carolina*, with the exception of the captain and one man on each vessel, detained at Oonalaska, were sent by the steamer *St. Paul* to San Francisco, California, and there turned adrift, while the crew of the *Onward* was kept at Oonalaska. At the time of their seizure the *Thornton* had 404 seal skins on board, the *Onward*, 900; and the *Carolina*, 686; and these are detained and kept at Oonalaska, along with the schooners, by the United States authorities.

The minister states that he has taken steps to get further depositions from the owners, masters, and crews of the vessels above mentioned, in order that a claim may be made upon the United States Government for damages for this unwarranted seizure of British vessels in the open sea.

The committee recommend that your excellency be moved to transmit a copy of this minute, if approved, together with copies of the papers herein mentioned, to the right honorable the principal secretary of state for the colonies, for transmission to the foreign office, and also copies to Her Majesty's minister at Washington.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 2.]

Copy of letter from James Ogilvie, master of schooner Carolina.

SCHOONER CAROLINA,
Oonalaska, August 6, 1886.

DEAR SIR: The United States steamer *Corwin* boarded and took charge of the schooner in latitude 55° 50' N., longitude 168° 53' W.; they took all the fire-arms from the schooner. I asked why they did so; they said for killing female seals and carrying fire-arms. They towed the *Thornton* and *Onward* in at the same time. I have got 686 seal skins on board; *Thornton*, 404; *Onward*, 900. I have heard nothing of the *Pathfinder* in the Behring Sea; she was seen off Sitka, coming up. It was on August 1, at 6 p. m., they took charge of the schooner; canoes and white men will not do; all the schooners that have canoes have got from 9 to 11 canoes. The American schooner *San Diego* is in here; they have taken all her skins and sails on shore; 500 skins. Thirteen days after we left Clayquot we were in the Behrings Sea, we lost the boat from the stern.

AUGUST 7, 1886.

The company's steamer *St. Paul* will leave to-morrow; the captain of the *San Diego* and all hands are going down in her. I will send this letter by her.

Yours, truly,

JAMES OGILVIE.

[Inclosure 3.]

*Copy of letter from Daniel Munroe, master of schooner Onward.*SCHOONER ONWARD, PORT ILIOLUK,
Ounalaska, August 7, 1886.

DEAR SIR: On the 2d, while the *Onward* was in latitude 54° 52' N., longitude 167° 55' W., and about 70 miles from the nearest land, the United States revenue-cutter *Corwin*, having the schooners *Thornton* and *Carolina* in tow, boarded us and sent a crew on board and towed us in here, where we are lying at present with sails bent and seals on board and a watchman in charge, but can't find out what they intend to do with us, so I can't say any more about it at present.

I met the *Favorite* on the 28th. Captain McLean was on board of us; we gave him 508 skins and they had 1,290 they took themselves, making them about 1,800 total, and as we were in sight of each other until the night of the 1st instant he must have made a good catch, for we have 400 skins on board at present that we took in four days, and I am positive his crowd could take twice that number, as we have not got the best of sealers.

I believe all the schooners did well, and I trust they will get away all right. There is no cutter out at present, as there is only two of them up here, one of them up in the Arctic and the other that brought us here is still watching us here.

We may find out to-day how they are going to dispose of us, but I am in hopes they made false steps, and that they can do nothing more than spoil the season.

They took the schooner *San Diego* in here about a month ago, and took the skins out of her and unbent her sails and put everything ashore, and they are sending the crew to San Francisco to-day in one of the Fur Company's steamers, *St. Paul*.

Later on have heard nothing more, only the crew of the *Thornton* and *Carolina* is going to San Francisco to-day in the steamer *St. Paul*, except the captain and one man in each, but they took none of our crew.

There are rumors afloat that the three schooners are to be laid up here all winter, and that we are to be taken to Sitka, but no certainty. I wrote you this morning as the boat was leaving the wharf, thinking that she was going away, but she came to anchor in the roads and I don't think I finished it. I was afraid of being late. We sent a protest on board the cutter against the action of the authorities in seizing the vessels on the high seas, but I don't know if it will amount to much; there is no notary public here to sign it. I have nothing more to write you. Trusting things will turn out better than we expect,

I remain, etc.,

DANIEL MUNROE.

CHARLES SPRING, Esq.,
Victoria.

[Inclosure 4.]

Deposition of John Dallas.

I, John Dallas, of Victoria, British Columbia, seaman, do solemnly and sincerely declare that I was engaged about the end of May, 1886, as a seaman on board the schooner *Thornton*, of 22.30 registered tonnage, registered in the Dominion of Canada as a British vessel. I was engaged sealing on the west coast of Vancouver Island, and when the seals got scarce the *Thornton* left Clayakot, Vancouver Island, for Behring Sea about beginning of June, and three days after passing Unamark Pass we killed our first seal, being then about 250 miles from land; we were engaged sealing in the open sea until the 1st of August. We had a little over 400 skins on board when the United States steamer *Corwin* seized our vessel and took her to Ounalaska; they were about twenty-eight hours engaged in towing us to Ounalaska. The master of the *Corwin* removed all our guns and ammunition; ten guns in all. There were fourteen hands on board the *Thornton* altogether, including two Indians; nine white men and a Chinese cook were sent to San Francisco and there discharged; two white men and two Indians were left on board the schooner at Ounalaska; we were 5 or 6 miles from the *Carolina* at the time we were seized. I saw no other vessel in sight at the time; we were never in sight of land during the whole time we were sealing. And I make this declaration conscientiously, believing the same to be true, by virtue of the act passed in the thirty-seventh year of Her Majesty's reign, intituled "An act for the suppression of voluntary and extra-judicial oaths."

JOHN (his x mark) DALLAS.

Taken and declared before me at Victoria this 23d day of August, 1886, the same having been first read over to him.

M. W. TYRWHITT DRAKE,
Justice of the Peace.

Deposition of William Munsie.

I, William Munsie, of Victoria, grocer, do solemnly and sincerely declare that I am the sole owner of the schooner *Carolina*, and she has a Canadian register, having been registered at the port of Victoria; the vessel and her outfit at the time she left for Behring Sea was \$7,000. And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the act passed in the thirty-seventh year of Her Majesty's reign, intituled "An act for the suppression of voluntary and extrajudicial oaths."

WM. MUNSIE.

Taken and declared before me at Victoria this 23d August, 1886.

M. W. TYRWHITT DRAKE,
Justice of the Peace.

Deposition of Thomas McLardy.

I, Thomas McLardy, of Victoria, British Columbia, cook, do solemnly and sincerely declare that I was engaged as cook on board the British schooner *Carolina*. I was on board when the United States steamer *Corwin* seized her. During the whole time the said schooner was sealing she never sighted land once. After she was seized the *Corwin* took her in tow, about 6 o'clock in the evening, and about 3 o'clock in the morning the English schooner *Onward*, of the tonnage 35.20 tons, was also seized and taken in tow to Oonalaska. Her crew were left on board, and not removed to San Francisco. She had seal skins on board. And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the act passed in the thirty-seventh year of Her Majesty's reign, intituled "An act for the suppression of voluntary and extrajudicial oaths."

T. MCLARDY.

Taken and declared before me this 23d August, 1886, at Victoria, British Columbia.

M. W. TYRWHITT DRAKE,
Justice of the Peace.

Deposition of Edward Shields.

I, Edward Shields, of Tooke district, Vancouver Island, a hunter engaged on board the British schooner *Carolina*, of 31.90 registered tonnage, do solemnly and sincerely declare that I left Victoria on board the aforesaid schooner on the 20th May, 1886, bound on a voyage to Behring Sea for the purpose of sealing. The schooner was fitted out for this purpose; she had eleven hands on board, including the master, by name James Ogilvie. We sailed to Behring Sea and commenced sealing on the 15th June, and at that time we were about 300 miles from land, and we continued cruising about for seals, and up to the time the United States vessel *Corwin* seized us we had 686 seals; during the whole time we were cruising about we were in the open seas, out of sight of any land; the seals we obtained were chiefly females; at the time the *Corwin* seized us, on the 1st of August, we were out of sight of land and in latitude 55° 50' N., longitude 168° 53' W., as I was informed and verily believe. There were other vessels, both American and English, cruising about in the same neighborhood; we never killed a seal in the neighborhood of the Aleutian Islands. I was away in the boats when the *Corwin* seized the vessel, and when I came back I found the *Carolina* in tow of the *Corwin*. The captain of the *Corwin*, Abbey by name, took away all the fire-arms, consisting of rifles and shotguns, ten in all, and I was taken to Oonalaska, and from there I was taken to San Francisco by the steamer *St. Paul*, and there turned adrift. The *Carolina* was left at Oonalaska with the seals and outfit. And I make this declaration, conscientiously believing the same to be true, by virtue of the act passed in the thirty-eighth year of Her Majesty's reign, intituled "An act for the suppression of voluntary and extrajudicial oaths."

EDWARD SHIELDS.

Taken and declared before me, at Victoria, this 23d day of August, 1886, in due form of law.

M. W. TYRWHITT DRAKE,
Justice of the Peace.

No. 111.

The administrator to Sir L. West.

HALIFAX, NOVA SCOTIA, September 28 1886.

SIR: I have the honor to forward for your information a copy of an approved report of a committee of the privy council, submitting letters and depositions from some of the masters and crews of the Canadian schooners *Onward*, *Thornton*, and *Carolina*, relative to the seizure of those vessels in Behring Sea by the United States revenue-cutter *Corwin*, and their subsequent detention at the port of Oonalaska, in the Territory of Alaska.

I have communicated a copy of this order in council and accompanying papers to the secretary of state for the colonies, for transmission to the foreign office.

I have, etc.,

MINISTER AT WASHINGTON.

A. RUSSELL,
Administrator.

No. 112.

The administrator to Sir L. West.

HALIFAX, NOVA SCOTIA, September 28, 1886.

SIR: With reference to my dispatch No. 15 of this day's date I have the honor to forward for your information a copy of an approved report of a committee of the privy council, to which is appended a report by my minister of marine and fisheries, upon which my telegram of the 22d instant was founded, relative to the seizure of the Canadian schooners *Thornton*, *Onward*, and *Carolina*, on the 1st August last, by the United States revenue-cutter *Corwin*, in Behring Sea.

I have communicated a copy of this minute of council, with the annexed report of the minister of marine and fisheries, to the secretary of state for the colonies.

I have, etc.,

MINISTER AT WASHINGTON.

A. RUSSELL,
Administrator.

No. 113.

Sir L. West to the administrator.

WASHINGTON, October 4, 1886.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatches Nos. 15 and 16 of the 28th ultimo, inclosing copies of approved reports of a committee of the privy council relative to the seizure of the Canadian schooners *Onward*, *Thornton*, and *Carolina*, by the United States revenue-cutter *Corwin*, in Behring Sea.

I have, etc.,

LORD ALEXANDER RUSSELL.

L. S. SACKVILLE WEST,

No. 114.

Mr. Stanhope to the administrator.

DOWNING STREET, October 25, 1886.

MY LORD: With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behring Sea I have the honor to inform you that Her Majesty's minister at Washington has been instructed by telegraph to protest, in the name of Her Majesty's Government, against this action on the part of the United States cruiser, and to reserve all rights to compensation.

I inclose, for communication to your Government, a copy of a dispatch, with its inclosure, which has been received at the foreign office from Sir L. West on the subject.

I have, etc.,

EDWARD STANHOPE.

The Officer Administering the Government of Canada.

No. 115.

The Earl of Iddesleigh to Sir L. West, October 30, 1886.(Omitted here, being printed *supra*, No. 3.)

No. 116.

Lord Lansdowne to Mr. Stanhope.

[Telegram to the secretary of state for the colonies on the 27th November, 1886.]

Vessels are now being equipped in British Columbia for fishing in Behring Sea, and intend to start about the 10th of December. Can you obtain any assurance as to whether the vessels will be exposed to seizure by United States cruisers? They do not intend to fish near land.

LANSDOWNE.

No. 117.

Lord Lansdowne to Mr. Stanhope.

OTTAWA, November 29, 1886.

SIR: I have the honor to inclose herewith copy of an approved report of my privy council, dealing with the recent seizure of the Canadian schooners *Carolina*, *Onward*, and *Thornton* by the United States revenue steamer *Corwin*, while fishing for seals in Behring Sea.

The statements contained in the report are sufficient to establish that the claim now put forward on the part of the United States, to the sole right of taking fur-bearing animals within the limits laid down in the

first article of the treaty of 1887, is inconsistent with the rights secured to Great Britain under the convention of 1825, and is in substance the same as that which, when advanced by the Russian Government on different occasions prior to the cession of Alaska by Russia to the United States, was either strenuously resisted or treated with ridicule and contempt by the Government of the latter power.

It is impossible to believe that when, by the convention of 1825, it was agreed that the subjects of Great Britain, as one of the contracting parties, should not be "troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same or in fishing therein," any reservation was intended with regard to that part of the Pacific Ocean known as Behring Sea. The whole course of the negotiations by which this convention and that between Russia and the United States, of the same year, were preceded—negotiations which, as pointed out in the report, arose out of conflicting claims to these very waters—points to the contrary conclusion. It would, indeed, be difficult to condemn the present pretensions of the United States authorities in language more convincing or emphatic than that which, while those negotiations were in progress, was used by Mr. Middleton, then Russian minister at St. Petersburg, in his memo. dated 13th December, 1823. (*Vide* American State Papers, Foreign Relations, Vol. V, No. 384.)

It is laid down in that memorandum that "the existence of territorial rights to the distance of 100 miles from the coasts upon two opposite continents, and the prohibition of approaching to the same distance from these coasts, or from those of all the intervening islands, are innovations in the law of nations and measures unexampled. It must thus be imagined that this prohibition bearing the pains of confiscation applies to a long line of coasts with the intermediate islands situate in the vast seas where the navigation is subject to innumerable and unknown difficulties, and where the chief employment, which is the whale fishery, can not be compatible with a regulated and well determined course." Mr. Middleton added "that universal usage, which has obtained the force of law, has established for all the coasts an accessory limit of a moderate distance which is sufficient for the security of the country and for the commerce of its inhabitants, but which lays no restraint upon the universal rights of nations, nor upon the freedom of commerce and navigation."

Under the treaty of 1867 Russia ceded to the United States "all the rights, franchises and privileges" then belonging to her in the territory or dominion included within the limits described (*vide* Art. VI), but could not cede a right which, in the express terms of the treaty of 1825, was recognized as belonging to the subjects of the British Crown as well as to those of Russia.

This is, as far as I have been able to ascertain, the first occasion upon which claims of the kind now advanced have been enforced. Sealing vessels from British Columbia have for some years past frequented the waters of Behring Sea without molestation, and a letter, of which I inclose a copy, addressed by Mr. William Munsie, of Victoria, British Columbia, to my minister of marine and fisheries, shows how serious will be the effects of this interference upon a well-established and important industry, in which many British subjects have a substantial interest.

It is, I think, worth while to contrast the claims now urged by the Government of the United States to exclusive control over a part of the Pacific Ocean, the distance between the shores of which is, as was pointed out by Mr. Adams in 1822, not less than 4,000 miles, with the

indignant remonstrances recently made by Mr. Bayard against the action of the Canadian authorities in warning United States fishing vessels from entering the territorial waters of the Dominion at points where those waters were only a few miles in width, and throughout their whole extent in close proximity to Canadian territory.

A warning of this kind when given in respect of the Bay des Chaleurs, which measures about eighteen miles at its mouth, was stigmatized by Mr. Bayard in his despatch of June 14, 1886, as a "wholly unwarranted pretension of extraterritorial authority," and as an "interference with the unquestionable rights of the American fishermen to pursue their business without molestation at any point not within 3 marine miles of the shores."

I would also draw your attention especially to the great hardships occasioned to the owners and crews of the seized vessels, by the confiscation of their catch, and by the imprisonment of some of the persons on board of them.

I understand that owing to the amount of the fines imposed, which were so heavy that the owners have declined to pay them, the captains and mates of the seized vessels, though originally sentenced to thirty days' imprisonment (a term which has long since expired), are still detained.

I may add, in explanation of the concluding passage in Mr. Munsie's letter, that Mr. Ogilvie, the captain of the *Carolina*, while waiting at Oonalaska for the trial of his vessel, wandered off into the woods, in which it appears, from Mr. Munsie's statement, that he must have perished.

LANDSDOWNE.

The Right Hon. EDWARD STANHOPE, ETC.

[Inclosure 1.]

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the governor general in council on the 29th November, 1886.

The committee of the privy council have had under consideration a communication from Mr. E. C. Baker, M. P., president of the British Columbia Board of Trade, transmitting a letter from Mr. Theodore Lubbe, the managing owner of the British Columbia sealing fleet, asking information as to the United States claim to the easterly half of Behrings Sea as American waters. And also a despatch, dated 26th August last, from the lieut. governor of British Columbia, advising of the seizure of the Canadian schooners *Carolina* and *Thornton* by the United States revenue steamer *Corwin*, while engaged in sealing in Behrings Sea. Also copy of a letter from Daniel Munroe, master of the Canadian sealing schooner *Onward*, which has been already forwarded by his excellency the governor general to the colonial office and to Her Majesty's minister at Washington.

The subcommittee of council, to whom the papers were referred, observes that it appears that the schooners mentioned were Canadian vessels fitted out for the capture of seals in the North Pacific Ocean adjacent to Vancouver Island, Queen Charlotte Island, and Alaska; that they were peaceably pursuing their avocations on the high seas at a distance of some 70 miles from the nearest island, and more than one hundred miles from the nearest mainland; that they were taken possession of by the United States revenue-cutter *Corwin* on the first of August last and towed to the port of Oonalaska.

The crews of the *Thornton* and *Carolina* (with the exception of the captain and one man on each vessel, who were detained at Oonalaska) were sent by steamer to San Francisco and there turned adrift, while the men of the *Onward* were kept at Oonalaska. The schooners and the seals found on board of them were also detained by the United States authorities.

The authority under which these seizures were made is apparently: (1) A letter of instruction from the Acting Secretary of the Treasury of the United States to Mr.

D'Ancona, the collector of customs at San Francisco, dated 12th March, 1881, with enclosures (A of the appendix). (2) A letter from the Secretary of the United States Treasury to the collector of customs at San Francisco, dated 16th March, 1886, confirming the instructions given to Mr. D'Ancona in 1881, and ordering publication of the same (B of appendix). (3) The Revised Statutes of the United States, the 1596th section of which prohibits the killing of fur-bearing animals within the limits of Alaska Territory, or in the waters thereof, and the sections 1960 and 1961 of which prohibit the killing of male seal except at certain times and under certain restrictions, and of female seals at any time, upon the islands of St. Paul and St. George, or in the waters adjacent thereto.

The master and mate of the schooner *Thornton* were subsequently (13th August last) brought for trial before Judge Dawson, in the United States district court at Sitka.

The evidence given by the officers of the United States revenue-cutter *Corwin* was to the effect that the *Thornton* was seized while in Behrings Sea, about 60 or 70 miles SSE. of St. George Island, for the offense of hunting and killing seals within that part of Behrings Sea which was ceded to the United States by Russia in 1867. The judge, in his charge to the jury, quoted the first article of the treaty of the 30th March, 1867, between Russia and the United States, in which the boundary of Alaska is defined as follows:

"The western limit, within which the territories and dominions conveyed are contained, passes through a point in Behring Straits, on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian, which passes midway between the island of Krusenstern or Gnalook and the island of Ratmanoff or Noonarbrook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds then in a straight course, nearly southwest, through Behring Straits and Behring Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence from the intersection of that meridian in a southwesterly direction, so as to pass midway between the island of Otton and the Copper Island of the Kormadorski Couplet or group, in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of the meridian." (Executive Documents, 2nd session, 40th Congress, Vol. 13, Document 177.)

The judge is reported to have gone on to say:

"All the waters within the boundary set forth in this treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits before described.

"If, therefore, the jury believe from the evidence that the defendants did by themselves or in conjunction with others on or about the time charged in the information kill any otter, mink, martin, sable, or fur-seal, or other fur-bearing animal or animals on the shores of Alaska or in the Behrings Sea east of the one hundred and ninety-third degree of west longitude, the jury should find the defendants guilty, and assess their punishment separately, at a fine of not less than \$200 nor more than \$1,000, or imprisonment not more than six months, or by both, such fines within the limits herein set forth, and imprisonment."

The jury found the prisoners guilty, and the master of the *Thornton* was sentenced to thirty days' imprisonment and to pay a fine of \$500, while the mate was sentenced to a like term of imprisonment and to pay a fine of \$300. It appears from a telegraphic despatch of the 18th of September last, that the masters and mates of the *Onward* and *Carolina* have since also been tried and sentenced to undergo penalties similar to those inflicted on the master and mate of the *Thornton*.

The subcommittee do not here propose to comment on the enlarged construction placed by Judge Dawson on the words "adjacent waters" in the clauses of the Revised Statutes above referred to, further than to remark in passing that its effects would be to convert a purely municipal prohibition into an international obligation, and to claim for the United States a jurisdiction which their Government have in the past not only declined themselves to assert, but which they have strenuously resisted when claimed by another power.

The following brief instance will illustrate the position taken by the United States Government in the recent past:

As late as the 19th April, 1872, Mr. Boutwell, then Secretary of the United States Treasury, in answer to a request made to him that a revenue cutter should be sent to the region of the Unimak Pass to prevent Australian and Hawaiian vessels from taking seals on their annual migration to the islands of St. Paul and St. George, declined to accede to the request and added:

"In addition I do not see that the United States would have jurisdiction or power

to drive off parties going up there for that purpose, unless they made such attempts within a marine league of the shore."

Going further back in date the subcommittee find that in 1822 a claim to sovereignty over the Pacific Ocean north of the 51st degree of latitude was put forward by Russia. An imperial ukase issued on the 4 (16) September, 1821, regulating commerce, whaling and fishing along the eastern coast of Siberia, the northwestern coast of North America, and the Aleutian and other islands, and prohibiting all foreign vessels from landing on the coast and islands belonging to Russia, or approaching them within less than 100 Italian miles, was communicated to the American Government on the 11th February, 1822 (C of appendix).

The Honorable John Quincy Adams, at that time United States Secretary of State, wrote on the 25th of the same month to M. de Poletica, the Russian minister plenipotentiary, expressing the surprise of the President of the United States at the assertion of a territorial claim by Russia extending to the 51st degree of north latitude on this continent; stating that the exclusion of American vessels from the shore beyond the ordinary distance to which the territorial jurisdiction extends had excited still greater surprise, and requesting an explanation of the grounds of right, upon principles generally recognized by the laws and usages of nations, which would warrant such claims.

M. de Poletica, in a dispatch dated 16 (28) February, 1822, defends the prohibition as designed to suppress the furnishing by foreigners of arms and ammunition to the natives of Russian America. He adds, however:

"The extent of sea of which these possessions form the limits, comprehends all the conditions which are ordinarily attached to shut seas (*mers fermées*), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities."

Mr. Adams deemed it a sufficient answer to this claim to point out the fact that "the distance from shore to shore on this sea, in latitude 51 north, is not less than 90° of longitude, or 4,000 miles. (State Papers, Vol. 9, p. 471 *et seq.*)

A writer in the North American Review, in an article published a few months later, says with respect to Mr. Adams' answer: "A volume on the subject could not have placed the absurdity of the pretensions more glaringly before us." (North American Review, Vol. 15, p. 389.)

The position was relinquished by Russia after much negotiation and correspondence (see American State Papers, foreign relations, Vol. 5, p. 432) and on the 17th of April, 1824, a convention was concluded between the United States and that country, which was ratified at Washington on the 12th January, 1825, and of which the 1st article is as follows: 1. "It is agreed that in any part of the Great Ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already have been occupied for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles." (State papers, Vol. 12, p. 595.) The conditions and restrictions relate chiefly to the prevention of illicit trade in spirituous liquors, fire-arms, etc.

Negotiations between Great Britain and Russia on the subject of the same ukase and the prohibition above referred to resulted in a treaty between the two powers, concluded on 28th February, 1825, and containing the following provision, in which the right of fishing and navigation by Great Britain in any part of the Pacific Ocean is recognized:

"It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives under the restrictions and conditions specified in the following articles." (State Papers, vol. 12, p. 38.)

So far as the subcommittee are aware the claim was never revived until it is now, for the first time, put forward by the United States.

It does not appear necessary to insist at any great length that the conditions attaching to *Maria clause* can not by any possibility be predicated of Behring Sea, and that the seizure of Canadian vessels at a distance of over 100 miles from the mainland, and 70 miles from the nearest island, constitutes a high-handed extension of maritime jurisdiction unprecedented in the law of nations; but the subcommittee can not conclude without inviting the earnest attention of Her Majesty's Government to the fact that Canadian citizens, seized while engaged in the pursuit of their lawful avocation upon the high seas, and more than 70 miles from the nearest land, have been dragged before a foreign court, their property confiscated, and themselves thrown into prison, where they still remain.

The subcommittee express their confident hope that such representations will be at once made to the United States Government as will secure the immediate release of the imprisoned men, and full reparation for all losses and damage sustained by them.

The committee concur in the foregoing report, and they advise that your excellency be moved to transmit a copy of this minute, if approved, to the right hon. the secretary of state for the colonies, and to Her Majesty's minister at Washington.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

INDEX TO APPENDIX.

- A. Letter from the Acting Secretary United States Treasury Department to Mr. D'Ancona, the collector of customs at San Francisco, dated 12th March, 1881.
- B. A letter from the Secretary of the United States Treasury Department to the collector of customs at San Francisco, dated 16th March, 1886.
- C. Edict of His Imperial Majesty, autocrat of all the Russias, dated 4th September, 1886.

APPENDIX A.

TREASURY DEPARTMENT, 12th March, 1881.

D. A. D'ANCONA,
717 O'Farrell street, San Francisco, Cal. :

SIR: Your letter of the 19th ult., requesting certain information in regard to the meaning placed by this Department upon the law regulating the killing of fur-bearing animals in the Territory of Alaska, was duly received.

The law prohibits the killing of any fur-bearing animals, except as therein otherwise provided, within the limits of Alaska Territory, or in the waters thereof, and also prohibits the killing of any fur seals on the islands of St. Paul and St. George, or in the waters adjacent thereto, except during certain months.

You inquire in regard to the interpretation of the terms "waters thereof" and "waters adjacent thereto," as used in the law, and how far the jurisdiction of the United States is to be understood as extending.

Presuming your inquiry to relate more especially to the waters of western Alaska, you are informed that the treaty with Russia of 30th March, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. The treaty is found on pages 671 to 673 of the volume of treaties of the Revised Statutes. It will be seen, therefore, that the limit of the cession extends from a line starting from the Arctic Ocean and running through Behring Straits to the north of the St. Lawrence Islands.

The line runs thence in a southwesterly direction, so as to pass midway between the island of Attan and Copper Island, of the Kormandorski couplet or group, in the North Pacific Ocean, to meridian of 173 degrees west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory.

All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

APPENDIX B.

TREASURY DEPARTMENT, 16th March, 1886.

SIR: I transmit herewith for your information a copy of a letter addressed by the Department on 12th March, 1881, to D. A. D'Ancona, concerning the jurisdiction of the United States in the waters of the Territory of Alaska, and the prevention of the killing of fur seals and other fur-bearing animals within such areas, as prescribed by chapter 3, title 23, of the Revised Statutes. The attention of your predecessor in office was called to this subject on 4th April, 1881. This communication is addressed to you, inasmuch as it is understood that certain parties at your port contemplate the fitting out of expeditions to kill fur seals in these waters. You are requested to give due publicity to such letters, in order that such parties may be informed of the construction placed by this Department on the provisions of law referred to.

D. MANNING,
Secretary.

COLLECTOR OF CUSTOMS OF SAN FRANCISCO.

APPENDIX C.

EDICT OF HIS IMPERIAL MAJESTY, AUTOCRAT OF ALL THE RUSSIAS.

The directing senate maketh known unto all men: Whereas, in an edict of His Imperial Majesty, issued to the directing senate on the 4th day of September, and signed by His Imperial Majesty's own hand, it is thus expressed:

"Observing from reports submitted to us, that the trade of our subjects on the Aleutian Islands and on the northwest coast of America appertaining unto Russia is subjected, because of illicit and secret traffic, to oppression and impediments; and finding that the principal cause of these difficulties is the want of rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific regulations which are hereto attached.

"In forwarding these regulations to the directing senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution.

"COUNT D. GURIEF,
"Minister of Finances.

"It is therefore decreed by the directing senate, that His Imperial Majesty's edict be published for the information of all men, and that the same be obeyed by all whom it may concern."

The original is signed by the directing senate.

On the original is written in the handwriting of His Imperial Majesty, thus:

Be it accordingly.

ALEXANDER.

"SEC. 1. The pursuits of commerce, whaling, and fishery, and of all other industry on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Behring Straits to the 51st of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands, from Behring Straits to the south cape of the Island of Urup, viz, to the 45—50 northern latitude, is exclusively granted to Russian subjects.

"SEC. 2. It is therefore prohibited to all foreign vessels, not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than a hundred Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo."

[Inclosure 2.]

Mr. Baker to the Secretary of State.

OTTAWA, April 9, 1886.

SIR: I have the honor to transmit herewith a letter just received from Mr. Theodore Lubbe, the managing owner of our British Columbia sealing fleet, and dated 30th ultimo. The newspaper clipping attached thereto fully explains the matter embodied therein, and, as will be at once seen, it is a matter of vital importance to our fishing industry and commercial enterprises generally, that the same should engage the attention of the Government at the very earliest possible moment, in order that the owners may be apprised with as little delay as possible how they are to act.

I would therefore respectfully urge that the whole subject be referred to his excellency the governor-general in council, so that I may be informed as quickly as is reasonably possible what reply to telegraph. Should this mode of procedure be irregular or undesirable, then I would most respectfully ask that such other steps be taken in the premises as to you may appear necessary or expedient so as to avert trouble in the closely approaching season alluded to, and remove all doubt as to the rights of the parties on the "high seas" or otherwise as may appear to be reasonably consistent.

I have the honor to be, sir, your most obedient servant,

EDGAR CROW BAKER, M. P.,
Vice-President British Columbia Board of Trade.

THE SECRETARY OF STATE.

[Inclosure 3.]

Mr. Lubbe to Mr. Baker.

VICTORIA, BRITISH COLUMBIA, March 30, 1886.

DEAR SIR: The inclosed clipping explains itself.

The question I wish to ask is, can the United States claim the easterly half of Behring Sea as "American waters"?

The British schooners *Mary Ellen*, *Favorite*, *Onward*, *Gracia*, *Dolphin*, *Ann Beck*, *Wm. P. Sayward*, *Mary Taylor*, *Caroline*, *Alfred Adams*, and *Active* intend to follow the seals into Behring Sea at the end of the seal-fishing season, off the British Columbia coast—say 20th May next. These schooners would spear and shoot seals upon the high seas and have no occasion to go within 30 miles of any land. You are aware that the British schooner *Mary Ellen* has already made two successful voyages to Behring Sea. The *Favorite* made also a successful voyage during 1885. Both these vessels were spoken by an American revenue-cutter in Behring Sea, but not in any way molested.

Would it not be well for you to obtain from the minister of marine in Ottawa a written opinion, and further, would you be good enough to communicate to me the substance of such opinion by wire?

Please act promptly and oblige,

Yours, truly,

T. LUBBE.

MR. EDGAR CROW BAKER, M. P.,
Ottawa.

The letter referred to in my letter dated April 9, 1886.

EDGAR CROW BAKER, M. P.

WARNING TO SEAL HUNTERS.

The Treasury Department having become informed that certain parties are fitting out expeditions for the purpose of killing fur seals and other fur-bearing animals in Alaskan waters, gives the following information to parties concerned as to how far the jurisdiction of the United States extends in the matter:

The treaty with Russia of March 30, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the territory so ceded. It will be seen therefrom that the limit of cession extends from a line starting from the Arctic Ocean and running through Behring Strait to the north of St. Lawrence Islands. The line runs thence in a southwesterly direction, so as to pass midway between the Island of Attou and Copper Island, of the Kromandorski couplet or group, in the North Pacific Ocean, to meridian 193° west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory. All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits prescribed.

[Inclosure 4.]

Mr. Lubbe to Mr. Baker.

VICTORIA, BRITISH COLUMBIA, April 2, 1886.

DEAR SIR: The inclosed clipping is upon the same subject, but more fully than the one sent you 30th ultimo.

Please attend to this matter promptly.

With regards,

T. LUBBE.

MR. EDGAR CROW BAKER,
Ottawa.

The "Alaska Commercial Company" is evidently pulling the wires.

T. L.

ALASKA SEAL CATCHING.

The story goes that some poachers were fitting out in this port to kill seals on the Federal preserves in Alaskan waters. To warn all such parties, Secretary Manning addressed the following note to Collector Hager:

TREASURY DEPARTMENT,
March 6, 1886.

SIR: I transmit herewith for your information a copy of a letter addressed by the Department on the 12th March, 1881, to D. A. D'Ancona, concerning the jurisdiction of the United States in the waters of the Territory of Alaska and the prevention of the killing of fur seals and other fur-bearing animals within such areas as prescribed by chapter 3, title 23, of the Revised Statutes. The attention of your predecessor in office was called to this subject on the 4th April, 1881. This communication is addressed to you inasmuch as it is understood that certain parties at your port contemplate the fitting out of expeditions to kill fur seals in these waters. You are requested to give due publicity to such letters, in order that such parties may be informed of the construction placed by this Department upon the provision of law referred to.

Respectfully, yours,

D. MANNING,
Secretary.

COLLECTOR OF CUSTOMS,
San Francisco.

Upon reference to back files we find the full explanation of this note in the letter referred to, which is as follows:

TREASURY DEPARTMENT,
March 12, 1881.

SIR: Your letter of the 19th ultimo, requesting certain information in regard to the meaning placed by this Department upon the law regulating the killing of fur-bearing animals in the Territory of Alaska, was duly received.

The law prohibits the killing of any fur-bearing animals, except as otherwise therein provided, within the limits of Alaska Territory or in the waters thereof, and also prohibits the killing of any fur seals on the islands of St. Paul and St. George, or in the waters adjacent thereto, except during certain months.

You inquire in regard to the interpretation of the terms "waters thereof" and "waters adjacent thereto" as used in the law, and how far the jurisdiction of the United States is to be understood as extending.

Presuming your inquiry to relate more especially to the waters of western Alaska, you are informed that the treaty with Russia of March 30, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the Territory so ceded. This treaty is found on pages 671 to 673 of the volume of treaties of the Revised Statutes. It will be seen, therefore, that the limit of the cession extends from a line starting from the Arctic Ocean and running through Behring Strait to the north of St. Lawrence Islands.

The line runs thence in a southwesterly direction, so as to pass midway between the island of Attou and Copper Island, of the Kromansdorski couplet or group, in the North Pacific Ocean, to meridian of 173° west longitude. All the waters within that boundary, to the western end of the Aleutian Archipelago and chain of islands, are considered as comprised within the waters of Alaska Territory. All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

Very respectfully,

H. F. FRENCH,
Acting Secretary

D. A. D'ANCONA,
717 O'Farrell street, San Francisco, Cal.

All parties are warned that the rule laid down by the Secretary of the Treasury of the United States in 1881, and re-affirmed in the note of Secretary Manning to the collector of this port of date of March 16, 1886, will be rigidly enforced against all who attempt to poach upon the Federal preserve by killing seals within its limits, there laid down and defined in the waters of Alaska. From that preserve the Federal Government derives its revenue, and its lessee is entitled to the protection proffered by the note of the Secretary referred to.

CONTRABAND SEAL HUNTING.

Noticing in your issue of the Call of the 25th instant an article referring to the Alaska Fur Company's territory, to oblige a number of your subscribers, will you kindly inform us if a vessel hunting seal a marine league off shore in Behring Sea would be liable to seizure, or does the marine league limit apply to that territory as it does to all land in the high seas?

SEVERAL INTERESTED SUBSCRIBERS.

Section 1956, Revised Statutes of the United States, prohibits the killing of fur-bearing animals within the limits of Alaska Territory or the waters thereof, except under an authorization from the Secretary of the Treasury, and it further provides that the Secretary shall not grant any special privileges under this section. Then comes the inquiry: What is included in the term "the waters thereof?"

The treaty by which Alaska was ceded to the United States by Russia defines the boundaries of the jurisdiction thus conveyed. The western limit which extends out on the high seas (a questionable conveyance) as far as the meridian of 193° west longitude, so as to include the whole of the Aleutian Archipelago, and thence proceeds northwest to the intersection of the meridian 172 W., with the parallel of 65° 30' N., passes through the middle of Behring Strait, midway between the islands of Krusenstern, or Ignalook and Rotmanoff, and thence due north without limitation into the Frozen Ocean. By act of Congress the laws of the United States are extended over all this territory and water. As Behring Strait, at its narrowest, is 36 miles wide, 9 miles from the Alaskan mainland coast would not begin to reach the western limit of our purchase from Russia, and until the right of the United States Government to exclusive jurisdiction over those waters is successfully controverted, you must not violate the law of Congress by killing seals therein, without the consent of the Secretary of the Treasury, on peril of confiscation. According to the current of modern authority, says Chancellor Kent, the general territorial jurisdiction extends into the sea as far as a cannon shot will reach, and no farther, and this is generally calculated to be a marine league (3 miles); and the Congress of the United States has recognized this limitation. The claim of Russia to sovereignty over the Pacific Ocean north of the 51st degree of latitude, as a close sea, was considered by our Government in 1822 as being against the rights of other nations; but now, as we have bought Russia out, it is all right. One's opinions change according to one's stand-point; and besides, cannons shoot farther now than they used to.

[Inclosure 5.]

Mr. Lubbe to Mr. Baker.

VICTORIA, B. C., April 12, 1886.

DEAR SIR: Please see fol. 10 and 11 of the inclosed document.

Yours, truly,

T. LUBBE.

MR. EDGAR CROW BAKER,
House of Commons, Ottawa:

Charles Edward Pooley, a public notary in and for the Province of British Columbia, duly commissioned and sworn, residing and practicing in the city of Victoria, in the said province, do hereby certify that the annexed paper writings are full, true and correct copies of the sworn copy sworn to be a correct copy by John T. Fogarty, at the city of San Francisco, in the State of California, on the 23d day of December, 1885, before John E. Hamill, notary public.

In testimony whereof I have hereunto set my hand and seal of office, at the city of Victoria aforesaid, the 12th day of April, 1886.

CHARLES E. POOLEY,
Notary Public, Victoria, B. C.

I.

[PUBLIC—No. 120.]

AN ACT to prevent the extermination of fur-bearing animals in Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful to kill any fur-seal upon the islands of Saint Paul and Saint George, or in the waters adjacent thereto, except during the

months of June, July, September and October in each year, and it shall be unlawful to kill such seals at any time by the use of fire-arms, or use other means tending to drive the seals away from said islands: *Provided*, That the natives of said islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing and for the manufacture of boats for their own use, which killing shall be limited and controlled by such regulations as shall be prescribed by the Secretary of the Treasury.

SEC. 2. And be it further enacted, that it shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to said islands, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and any person who shall violate either of the provisions of this or the first section of this act shall be punished, on conviction thereof, for such offence by a fine of not less than two hundred dollars, nor more than one thousand dollars, or by imprisonment not exceeding six months, or by such fine and imprisonment both, at the discretion of the court having jurisdiction by taking cognizance of the offence; and all vessels, their tackle, apparel, and furniture, whose crew shall be found engaged in the violation of any of the provisions of this act shall be forfeited to the United States.

SEC. 3. And be it further enacted, that for the period of twenty years from and after the passing of this act the number of fur seals which may be killed for their skins upon the island of Saint Paul is hereby limited and restricted to seventy-five thousand per annum; and the number of fur-seals which may be killed for their skins upon the island of Saint George is hereby limited and restricted to twenty-five thousand per annum: *Provided*, That the Secretary of the Treasury may restrict and limit the right of killing if it shall become necessary for the preservation of such seals with such proportionate reduction of the rents reserved to the Government as shall be right and proper, and if any person shall knowingly violate either of the provisions of this section he shall, upon due conviction thereof, be punished in the same way as provided herein for a violation of the provisions of the first and second sections of this act.

SEC. 4. And be it further enacted, that immediately upon the passage of this act, the Secretary of the Treasury shall lease for the rental mentioned in section six of this act, to proper and responsible parties, to the advantage of the United States having due regard to the interests of the Government, the native inhabitants, the parties heretofore engaged in trade, and the protection of the seal fisheries for a term of twenty years from the first day of May, eighteen hundred and seventy, the right to engage in the business of taking fur seals on the islands of Saint Paul and Saint George, and to send a vessel or vessels to said islands for the skins of such seals, giving to the lessee or lessees of said islands a lease, duly executed in duplicate not transferable, and taken from the lessee or lessees of said islands a bond with sufficient securities in a sum not less than five hundred thousand dollars conditioned for the faithful observance of all the laws and requirements of Congress and of the regulations of the Secretary of the Treasury touching the subject-matter of taking fur seal, and disposing of the same, and for the payment of all taxes and dues according to the United States connected therewith, and in making said lease the Secretary of the Treasury shall have due regard to the preservation of the seal fur trade of said islands and the comfort, maintenance, and education of the natives thereof. The said lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government revenue officer for the time being who may be in charge at the said islands as the authority of the party for landing and taking skins.

SEC. 5. And be it further enacted, That at the expiration of said term of twenty years or on surrender or forfeiture of any lease, other leases may be made in manner aforesaid for other terms of twenty years; but no persons other than American citizens shall be permitted by lease or otherwise, to occupy said islands or either of them, for the purpose of taking the skins of fur seals therefrom, nor shall any foreign vessel be engaged in taking such skins, and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit, or advantage, directly or indirectly, of any person or persons other than American citizens. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of said islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and any person who shall kill any fur seal on either of said islands, or in the waters adjacent thereto, without authority of the lessees thereof, and any person who shall molest, disturb, or interfere with said lessees, or either of them, or their agents or employes in the lawful prosecution of their business under the provisions of this act, shall be deemed guilty of a misdemeanor, and shall for each offense on conviction thereof, be punished

in the same way and by like penalties as prescribed in the second section of this act. And all vessels, their tackle, apparel, appurtenances, and cargo, whose crews shall be found engaged in any violation of either of the provisions of this section, shall be forfeited to the United States; and if any person or company under any lease herein authorized, shall knowingly kill, or permit to be killed, any number of seals exceeding the number for each island in this act prescribed, such person or company shall, in addition to the penalties and forfeitures aforesaid, also forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then said person or company shall forfeit the value of the same, and it shall be the duty of any revenue officer officially acting as such on either of said islands to seize and destroy any distilled spirits or spirituous liquors found thereon: *Provided*, That such officer shall make detailed report of his doings to the collector of the port.

SEC. 6. *And be it further enacted*, That the annual rental to be reserved by said lease shall not be less than fifty thousand dollars per annum; to be secured by deposit of United States bonds to that amount, and in addition thereto a revenue tax as duty, of two dollars, is hereby laid upon each fur seal skin taken and shipped from said islands during the continuance of such lease, to be paid into the Treasury of the United States, and the Secretary of the Treasury is hereby empowered and authorized to make all needful rules and regulations for the collection and payment of the same, for the comfort, maintenance, education, and protection of the natives of said islands, and also for carrying into full effect all the provisions of this act: *Provided further*, That the Secretary of the Treasury may terminate any lease given to any person, company, or corporation on full and satisfactory proof of the violation of any of the provisions of this act or the rules and regulations established by him: *Provided further*, That the Secretary of the Treasury is hereby authorized to deliver to the owners of the fur seal skins now stored on the islands, on the payment of one dollar for each of said skins taken and shipped away by said owners.

SEC. 7. *And be it further enacted*, That the provisions of the seventh and eighth sections of an "Act to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district thereon, and for other purposes," approved July twenty-seventh, one thousand eight hundred and sixty-eight, shall be deemed to apply to this act, and all the prosecutions for offenses committed against the provisions of this act, and all other proceedings had because of the violations of the provisions of this act, and which are authorized by said act above mentioned, shall be in accordance with the provisions thereof; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 8. *And be it further enacted*, That the Congress may at any time hereafter alter, amend, or repeal this act.

Approved July 1, 1870.

II.

Contract between William A. Richardson, Acting Secretary of the Treasury, and the Alaska Commercial Company.

This indenture, in duplicate, made this 3rd day of August, A. D. 1870, by and between William A. Richardson, Acting Secretary of the Treasury, in pursuance of an act of Congress, approved July 1st, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and the Alaska Commercial Company, a corporation duly established under the laws of the State of California, acting by John F. Miller, its president and agent, in accordance with a resolution of said corporation, duly adopted at a meeting of its board of trustees, held January 31st, 1870:

Witnesseth, that the said Secretary hereby leases to the said Alaska Commercial Company, without power to transfer, for the term of twenty years, from the 1st day of May, 1870, the right to engage in the business of taking fur seals on the islands of St. George and St. Paul, within the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

And the said Alaska Commercial Company, in consideration of their right under this lease, hereby covenant and agree to pay for each year during said term and in proportion during any part thereof, the sum of \$55,000 into the Treasury of the United States, in accordance with the regulations of the Secretary, to be made for this purpose under said act, which payment shall be secured by deposit of United States bonds to that amount; and also covenant and agree to pay annually into the Treasury of the United States, under said rules and regulations, a revenue tax or duty of \$2 upon each fur seal skin taken and shipped by them, in accordance with the provisions of the act aforesaid; and also the sum of 62½ cents for each fur seal skin taken and shipped, and 55 cents per gallon for each gallon of oil obtained from said seals for sale on said islands or elsewhere, and sold by said company. And also covenant and agree, in accordance with said rules and regulations, to furnish free of charge the inhabitants of the islands of St. Paul and St. George, annually during said term,

25,000 dried salmon, 60 cords fire-wood, and a sufficient quantity of salt, and a sufficient number of barrels for preserving the necessary supply of meat.

And the said lessees also hereby covenant and agree during the term aforesaid, to maintain a school on each island, in accordance with said rules and regulations, and suitable for the education of the natives of said islands, for a period of not less than eight months in each year.

And the said lessees further covenant and agree not to kill upon said island of St. Paul more than 75,000 fur seals, and upon the island of St. George not more than 25,000 fur seals per annum; not to kill any fur seal upon the islands aforesaid in any other month except the months of June, July, September, and October of each year; not to kill such seals at any time by the use of fire-arms or other means tending to drive the seals from said islands; not to kill any female seal or any seal less than one year old; not to kill any seal in the waters adjacent to said islands or on the beaches, cliffs, or rocks where they haul up from the sea to remain.

And the said lessees further covenant and agree to abide by any restriction or limitation upon the rights to kill seals under this lease that the act prescribes or that the Secretary of the Treasury shall judge necessary for the preservation of such seals.

And the said lessees hereby agree that they will not in any way sell, transfer, or assign this lease, and that any transfer, sale, or assignment of the same shall be void or of no effect.

And the said lessees further covenant and agree to furnish to the several masters of the vessels employed by them certified copies of this lease, to be presented to the Government revenue officers for the time being in charge of said islands, as the authority of said lessees for the landing and taking said skins.

And the said lessees further covenant and agree that they or their agents shall not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of said islands to any of the natives thereof, such person not being a physician furnishing the same for use as medicine.

And the said lessees further covenant and agree that this lease is accepted subject to all needful rules and regulations which shall at any time or times hereafter be made by the Secretary of the Treasury for the collection and payment of the rentals herein agreed to be paid by said lessees, for the comfort, maintenance, education, and protection of the natives of said islands, and for carrying into effect all the provisions of the act aforesaid, and will abide by and conform to said rules and regulations.

And the said lessees, accepting this lease with the full knowledge of the provisions of the aforesaid act of Congress, further covenant and agree that they will fulfill all the provisions, requirements, and limitations of said act, whether herein specifically set out or not.

In witness whereof the parties aforesaid have hereunto set their hands and seals the day and year above written.

WILLIAM A. RICHARDSON,
Acting Secretary of the Treasury.
ALASKA COMMERCIAL COMPANY.
By JNO F. MILLER,
President.

Executed in presence of
J. H. SAVILLE.

I certify the foregoing printed copy of the lease of the United States to the Alaska Commercial Company of the right to take fur seals in the Territory of Alaska, has been compared with the original on file in this Department and is a true copy thereof.

J. H. SAVILLE,
Chief Clerk Treasury Department.

WASHINGTON, D. C., September 3, 1870.

III.

Mr. Boutwell to Mr. Phelps.

TREASURY DEPARTMENT,
Washington, D. C., April 19, 1872.

SIR: Your letter of the 25th ultimo* was duly received, calling the attention of the Department to certain rumors circulating in San Francisco, to the effect that ex-

* The following is the communication to which this letter is the reply:

Mr. Phelps to Mr. Boutwell.

CUSTOM-HOUSE, SAN FRANCISCO,
Collector's Office, March 25, 1872.

SIR: I deem it proper to call the attention of the Department to certain rumors, which appear to be well authenticated, the substance of which appears in the printed slip taken from the Daily Chronicle of this date, herewith inclosed.

In addition to the several schemes mentioned in this paper, information has come to this office of

peditions are to start from Australia and the Hawaiian Islands, to take fur seals on their annual migration to the Islands of St. Paul and St. George through the narrow pass of Oonimak. You recommend, to cut off the possibility of evil resulting to the interests of the United States from these expeditions, that a revenue cutter be sent to the region of Oonimak Pass, by the 15th of May next. A very full conversation was had with Captain Bryant upon this subject while he was at the Department, and he conceived it to be entirely impracticable to make such an expedition a paying one, inasmuch as the seals go singly or in pairs, and not in droves, and cover a large region of water in their homeward travel to these islands, and he did not seem to fear that the seals would be driven from their accustomed resorts, even were such attempts made.

In addition, I do not see that the United States would have the jurisdiction or power to drive off parties going up there for that purpose, unless they made such attempt within a marine league of the shore.

As at present advised, I do not think it expedient to carry out your suggestions; but I will thank you to communicate to the Department any further facts or information you may be able to gather upon the subject.

I am, very respectfully,

GEORGE S. BOUTWELL,
Secretary.

another, which is being organized at the Hawaiian Islands for the same purpose. It is well known that during the month of May and the early part of June in each year the fur seal, in their migration from the southward to St. P. Paul and St. George Islands, uniformly move through Oonimak Pass in large numbers, and also through the narrow straits near that pass which separate several small islands from the Aleutian group.

The object of these several expeditions is unquestionably to intercept the fur seals at these narrow passages during the period above mentioned, and there, by means of small boats, manned by skillful Indians or Aleutian hunters, make indiscriminate slaughter of those animals in the water, after the manner of hunting sea-otters.

The evil to be apprehended from such proceedings is not so much in respect of the loss resulting from the destruction of the seals at those places (although the killing of each female is in effect the destruction of two seals), but the danger lies in diverting these animals from their accustomed course to the islands of St. Paul and St. George, their only haunts in the United States.

It is believed by those who have made the peculiar nature and habits of these animals a study, that if they are by any means seriously diverted from the line upon which they have been accustomed to move northward in their passage to these islands, there is great danger of their seeking other haunts, and should this occur, the natural selection would be Komandorsky Islands, which lie just opposite the Pribolov group, near the coast of Kamschatka, owned by Russia, and are now the haunt of fur seals.

That the successful prosecution of the above-mentioned schemes would have the effect to drive the seals from their accustomed course there can be no doubt. Considering, therefore, alone the danger which is here threatened to the interest of the Government in the seal fisheries, and the large annual revenue derived from the same, I have the honor to suggest, for the consideration of the honorable Secretary of the Treasury, the question whether the act of July 1, 1870, relating to those fisheries, does not authorize his interference by means of revenue-cutters to prevent foreigners and others from doing such an irreparable mischief to this valuable interest. Should the honorable Secretary deem it expedient to send a cutter into these waters, I would respectfully suggest that a steam-cutter would be able to render the most efficient service, and that it should be in the region of Oonimak Pass and St. Paul and St. George Islands by the 15th of May next.

I am, very respectfully,

T. G. PHELPS,
Collector.

[From San Francisco Daily Chronicle, March 21, 1872.]

It is stated in reliable commercial circles that parties in Australia are preparing to fit out an expedition for the capture of fur seals in Behring Sea. The present high prices of fur-seal furs in London and the European markets has acted powerfully in stimulating enterprises of a like character. But a few days ago we mentioned that a Victoria company was organized for catching fur seals in the North Pacific. Another party, an agent representing some eastern capitalists, has been in this city for the past week, making inquiries as to the feasibility of organizing an expedition for like purposes.

STATE OF CALIFORNIA,
City and County of San Francisco:

COLLECTOR'S OFFICE, CUSTOM-HOUSE, December 23, 1885.

I hereby certify the foregoing to be correct copies of original documents on file in this office.

STATE OF CALIFORNIA,
City and County of San Francisco:

John T. Fogarty, being duly sworn, deposes and says that the foregoing are true and correct copies of original documents on file in the office of the collector of customs of the port of San Francisco, that he has compared the foregoing with said originals, and knows them to be correct copies to his own knowledge.

JOHN T. FOGARTY.

Subscribed and sworn to before me this 23d day of December, 1885.

JOHN E. HAMILL,
Notary Public.

[Inclosure 6.]

THE ALASKA SEIZURES.

A common-sense view of the whole situation.—A Brooklyn paper speaks out.—What is the law?—The greatest maritime judge living.—The seal monopoly.

[From the Brooklyn Eagle.]

The recent seizure of vessels in Behring Sea by the United States revenue steamer *Corwin* for the alleged illegal capture of seals in the waters of the United States has attracted a surprisingly slight amount of attention in this quarter at least. This is probably due to the fact that the Cabinet has not had a meeting for some time, and that but one Cabinet minister remained in Washington, so that there was a lack of information on the subject, which was unfavorable to its discussion. Now, however, we have something like an official report of what took place from the captain of the *Corwin*, and the matter is ripe for the attention of the press of the United States. No one who gives the subject his notice can fail to recognize the fact that it is one of the most important questions this Government was ever called upon to discuss, and that it may involve consequences of the highest moment.

The captain of the *Corwin*, it would appear, was acting under positive instructions received at San Francisco, commanding him to seize and deliver to the United States district court of Alaska, for condemnation and seizure, all vessels found engaged in the capture of seals within Alaskan waters, which were defined to include all of Behring Sea east of the line from Behring Strait to a point west of the most western of the Aleutian Islands. Under this interpretation a vessel might be more than 500 miles from the main-land of America and still a trespasser in Alaskan waters, and therefore liable to seizure. The complaints which led to the issuing of these instructions came from the Alaska Fur Seal Company, who lease the seal fisheries from the Government for the payment of \$317,000 annually.

The vessels captured were six in number, three of them being described as British, one American, from San Francisco, but the nationality of the other two is not given. It is not pretended that any of them was within a marine league of the shore; in fact, the only vessel whose place of capture is specifically stated in the dispatch is the British schooner *Thornton*, which, the captain of the *Corwin* says, was captured about 70 miles south-southeast of St. George. This would bring her 150 miles from the chain of the Aleutian Islands and 300 miles from the nearest point of the main-land.

The captured schooners were taken to Ounalaska, where they were libeled for condemnation, and their crews were conveyed to Sitka, where the masters and mates, in addition to the loss of their vessels, were tried before Judge Dawson and fined and imprisoned.

In the case of the *Thornton*, the captain was fined \$500 and to be imprisoned for thirty days, while the mate of the same vessel was fined \$300. Judge Dawson, in passing sentence, was very severe on the prisoners, and likened their offense to piracy, telling them that they had no more right to go into the waters of another nation to interfere with its industries than they had to go upon another man's land and appropriate his crops. Judge Dawson, although only a district judge, considers that his jurisdiction extends over the whole of the waters of Alaska, comprising about a million square miles of what would elsewhere be regarded as the high seas, so that he may be safely regarded as the greatest maritime judge extant.

If it should be reported some day in the papers that a Gloucester fisherman had been captured by a Canadian cruiser 300 miles off the coast of Nova Scotia, and that her master and mate, in addition to the loss of their vessel, had been heavily fined, and were then languishing in a Canadian prison, there would probably be some indignation in New England. Yet that, as regards the maritime aspect of the case, is substantially what the Alaskan seizures amount to. It is maintained, however, that the circumstances of these cases are modified by the fact that Russia claimed the whole of Behring Sea as part of her territory, and that the waters claimed by this Government were ceded as part of Alaska. Judge Dawson is reported to have said on this point that Russia had claimed and exercised jurisdiction over all that part of Behrings Sea embraced in the boundary line set forth in the treaty, and that claim had been tacitly recognized and acquiesced in by the other maritime powers of the world for a long series of years prior to the treaty of 30th March, 1867. He held that the jurisdiction had been transferred, and that the United States had acquired absolute control and dominion over the area described in the treaty, and that British vessels manned by British subjects had no right to navigate the waters for the purpose of killing fur-bearing seals. If this is good law, that is the end of the matter; but is it good law? Unless we are greatly in error, there are copies of dispatches on the files of the State Department, written prior to 1867, in

which the Russian claim is distinctly repudiated and denied. Circumstances may have changed since then as to our attitude toward the subject, but the principle has not. And we doubt greatly whether the United States would ever have admitted such a claim if made by another nation. What would be said, for instance, if the British undertook to prevent an American whaler from entering Hudson Bay or traversing the western half of that arm of the Atlantic Ocean which leads to it? Maritime law and international are the same whether on the Atlantic or the Pacific, and there is certainly something grotesque in the sight of hundreds of American fishermen hovering on the Canadian Atlantic coast just beyond the 3-mile limit and claiming to enter all bays more than 3 miles wide at the mouth and fish, while on the Pacific Canadian vessels are captured 300 miles from the main-land, and the claim is made that a bay more than 1,000 miles wide at the mouth shall be a closed sea to them.

There is another aspect to the case, not international, but national. One of the vessels captured was an American schooner from San Francisco. All other American vessels, except those of the Alaska Seal Fur Company, are, therefore, excluded from these waters which are claimed as belonging to Alaska. Is there any warrant for this in the Constitution of the United States? It has been the evil policy of the nation to give up the whole Territory of Alaska to one gigantic monopoly, to discourage settlement and all legitimate enterprises not connected with the fur trade. Is this policy to be continued? It surely was not for this purpose that the Territory was bought, but that its resources might be developed, and such parts of it as are suitable for settlement opened to industrious workers. But for nineteen years Alaska has been nothing but the reserve of a great corporation, which is even now scheming to obtain a renewal of its franchise there. The matter is one of the greatest interest and importance to the American people, who are not desirous of establishing monopolies in Alaska or elsewhere, but wish to see all their territory opened up and made available for the use of all our citizens.

[Inclosure.]

Letter of Lieutenant-Governor Cornwall.

GOVERNMENT HOUSE,
Victoria, B. C., August 26, 1886.

SIR: I have the honor to report that a few days since I received a telegram from Mr. Mason, acting British consul at San Francisco, to the following effect:

"*Carolina, Thornton*, seized by United States steamer *Corwin* for illegal sealing; about twenty men from them put on board *St. Paul*, arrived here last night; they ask me for protection and to send them to Victoria. Advise me what to do; they are not charged with anything."

Upon receipt of this, I arranged with the owners of the *Carolina* and *Thornton* for the return of the men here, and they arrived on the 23d.

The *Carolina* and *Thornton*, belonging to different owners, are sloops owned here, and fitted out here for the prosecution of seal fishing in the North Pacific and Behring Sea. It seems, from the accounts given, that they were peaceably pursuing their avocations, and not within 70 miles of land when they were seized by United States revenue steamer *Corwin*, as above stated. Some of the men were shipped to San Francisco; the sloops and their masters are retained in some Alaskan port. This extraordinary and high-handed proceeding was doubtless perpetrated in the interests of the Alaska Commercial Company and ostensibly for the protection of the fur sealing fisheries which are leased by the Government of the United States to that company. In reality it proclaims the right of that Government to the sole use of the fisheries of those northern waters, an idea so preposterous as to be ludicrous. I inclose a cutting from a newspaper published here which gives as correct an account of the matter as we have at present, and also a statement of the facts relating to the transfer to the United States of the Russian American possessions, and of the lease and concessions granted by the Government of the United States to the company above mentioned. The matter has been already laid before the honorable the minister of marine and fisheries, who opportunely arrived here a few days after my receiving information of it, but I beg to call your earnest attention to it, so that the whole case being laid before the imperial authorities, steps may be taken not only to cause reparations to be made for the outrage committed, but to definitely prevent any possible repetition of it.

I have the honor to be, sir, your obedient servant,

CLEMENT F. CORNWALL,
Lieutenant-Governor.

I.

SEALING SCHOONER SEIZURES.

As the late seizure of an American and three British sealing schooners by an American revenue-cutter in the Behring Sea are almost certain to lead to international complications on account of the extravagance of the assumption upon which those seizures were made, a brief history of the events which led up to them will be acceptable at the present time. In March, 1867, a treaty was made between Russia and the United States, by which Russia ceded all its possessions in British North America to the Government of the United States. One of the terms of that treaty declared that the western limit, within which the territories and dominion conveyed are contained passes through a point in Behring Straits on the parallel of 65 degrees 30 minutes north latitude at its intersection by the meridian, which passes midway between the Islands of Krusenstern or Ignalook and the Island Ratmanoff or Noon-arbook, and proceeds due north without limitation into the frozen ocean. The same western limit beginning at the same initial point, proceeds thence in a course nearly southwest through Behring Sea, so as to pass midway between the northwest point of St. Lawrence and the southeast point of Cape Choutkotski, to the meridian of 172 west longitude, thence from the intersection of that meridian in a southwesterly direction, so as to pass midway between the Island of Atton and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of 179 degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian. So far, so good. In July, 1870, in the second session of the forty-first Congress, an act was passed entitled "An act to prevent the extermination of fur-bearing animals in Alaska," in which the number of seals to be killed for their skins was limited on St. Paul and St. George Islands to 75,000 per annum on each island, with power by the Secretary of the Treasury to further limit the number if necessary, and giving that official power to lease for rental mentioned in the act, to proper and responsible parties, to the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, the parties hitherto engaged in trade, and the protection of the seal fisheries, for a term of twenty-five years, from May, 1870, the right to engage in taking seals on the Islands of St. Paul and St. George.

Another section declares that any person who shall kill any fur seal on either of said islands, or in waters adjacent thereto, without authority from the lessees thereof, or interfere with them in the lawful prosecution of their duty, shall be deemed guilty of a misdemeanor, and shall for each offense, upon conviction, be punished, and all their vessels, tackle, apparel, appurtenances, and cargo shall be forfeited to the United States. In the month following the passage of this act, that is, in August, 1870, a lease called the seal island lease, was executed between the United States Government and the Alaska Commercial Company, a corporation established in California. In return for the exclusive privilege of taking for twenty years (with certain restrictions) fur seals in the islands of St. Paul and St. George, the lessees agreed to pay to the Government an annual sum of \$55,000, \$2.62½ for each seal skin taken, 55 cents for each gallon of seal oil sold, and to annually provide the natives with a certain quantity of provisions and fuel. The months of June, July, September, and October, were, moreover, the only months during which the capture of seals could be prosecuted. Under this lease or concession this company has perpetuated its monopoly for sixteen years, reaping a vast profit therefrom. Not satisfied with the prolific source of its supply and the facilities afforded it for engaging in the business, the company has sought and practically succeeded in controlling the seal fur market by its aggressiveness in pretending to construe the term "and the waters adjacent thereto," as meaning that vast sea of waters included in the limits of cession named in the Russo-American treaty of 1867. In this interpretation it has received the unrelaxed support of the United States Government, whose interests in the matter are identical with those of the company; and here it may be remarked that the royalty paid by the latter furnishes a handsome profit upon the purchase money of Alaska Territory.

One or two American revenue-cutters are always cruising in the Behring Sea and that portion of the North Pacific to the south of the Aleutian Islands, ever on the alert to prevent any vessels but those of the Alaska Commercial Company from capturing seals there. Meeting with no effectual opposition and the cost of litigation precluding any chance of success for the appellant, the Government has become more and more aggressive until finally, changing from a defensive to an offensive supervision, their action has culminated in the deliberate seizure of three British sealing schooners upon—whatever a national greed may declare to the contrary—the high and open seas—recognized by international law as part of the world's great highway—free to the commerce of all countries, and a natural means of the intercourse of all nations. It is laid down as one of the first principles of maritime and commercial international law, that the open sea or main ocean is like the atmosphere, free for common use to

all mankind, and can not be appropriated by any state to the exclusion of the others. Bearing in mind the huge improbability of the act of the revenue-cutter not being in consonance with governmental orders, what do we find? That a nation disregarding on one coast the belt of the sea literal which constitutes the range belonging to coast defenses, is actually assuming on another coast supreme maritime jurisdiction over a waste of waters comprising half of the northern portion of a vast ocean. In the exercise of this self-arrogated authority foreign mercantile vessels are forcibly seized, and, with their cargoes, are declared confiscated; while, with an unaccountable magnanimity, the crews, after being landed at an American port many hundreds of miles distant from the scene of their capture, are allowed to go at large. It may be advanced that if open to indiscriminate capture the fur seal would have ere this become extinct or nearly so. But though this has been the case with the seal in southern regions, it is a fact, which deplorable as it may be, would furnish a most flimsy excuse to a Government whose regulation of the industry in Alaskan waters is prompted not by philanthropy, but by strictly mercenary considerations. So far has this latter disposition carried them as to cause them to become responsible for an act which if committed by a vessel privately manned and owned, would bear but one interpretation. As it is, the act is one that is rash, aggressive, and in the face of what is known, bitterly unjust, and is already spoken of as an unworthy means of reprisal for the late seizures made by Canada of American fishing vessels on the Atlantic coast.

The sealing schooners when seized were over 70 miles from any land, and how, with this fact before them, the United States Government can attempt, with any show of reason, to justify the conduct of the commander of the *Corwin* it is difficult to imagine. With what evidence we have at hand, the seizures and detention are manifestly illegal; and representations of the affair through the proper official channels have already been forwarded to the Home Government. Britain is not belligerent; the strength she possesses—imparted by the commerce she conducts in every quarter of the globe—she does not misuse. But she has "grit" and accords justice; and, while respecting the right of other nations to traverse the high seas unmolested, expects, and is in a position to secure, recognition of that same right for herself.

II.

[From the (Portland) Oregonian, United States.]

THE ALASKA FRAUD.—SEIZURE OF BRITISH SCHOONERS IN BEHRING SEA.

NEWPORT, August 20.

Editor Oregonian:

The seizure of the British vessels in the waters of Alaska has probably raised an issue and will result in settling a question of great importance to the American people and especially to the people of the Pacific coast.

Of all the blunders or frauds committed by the Republican party there is probably none more palpable or positive, yet better concealed, than the acquisition and disposition of Alaska. And it seems strange that our people could rest so long and so quietly under so great a wrong as has been committed. The purchase of Alaska from Russia was all right. It was a good investment, and reflects credit on Secretary Seward and the administration that consummated the purchase. But the disposition of it afterwards was all wrong, and is a gross injustice to the American people, and is a piece of secret history that may never be written.

Let us briefly view the facts. Alaska was bought for about \$7,000,000, and paid for out of the common treasury of the United States, and then what was done? Was it thrown open to settlement, so that American citizens could search out its hidden wealth and develop its wonderful resources? No, but on the contrary it was closed up like a sealed book and handed over to the care and custody of a private corporation to draw millions from, while American citizens were carefully excluded or hunted like pirates, if they ventured within its limits. Of course, it is claimed that the Alaska Commercial Company merely acquired the right from the Government to the two small islands of St. George and St. Paul. But let any person attempt to fit out a small vessel for the purpose of trading or hunting in Alaska, and he will soon discover that the Alaska Commercial Company are sovereigns, and reign supreme over all the broad territory, and the collectors of customs and all the revenue officers of the Government seem to be their servants, and stand ready to do their bidding. I said the rights acquired by this company are a part of the secret history of the country; how they obtained this valuable franchise may never be known to the public, but it is claimed by many that it was simply the result of downright bribery and corruption from General Grant down through each department of the Government. And money has been poured out freely to obtain and maintain their ill-gotten rights.

But it would take too much of your valuable space to discuss all that is involved in this part of the question. This grasping monopoly, not satisfied with the almost exclusive control of this vast domain, containing over 500,000 square miles, now assume the ownership of the Behring Sea, and are employing their servants, the revenue officials, to hunt down and seize the little hunting vessels that have been going up there for the past few years to hunt for seals in the open sea. But, fortunately for American citizens, they have probably gone a step too far, and by seizing the British vessels the question of this company's title may be tested and decided.

The question may be asked, How did the Alaska Commercial Company acquire a title to Behring Sea? Perhaps it may be answered, from the United States Government. Well, how did the United States Government obtain the title? It may be answered again, from Russia. But when and how did Russia ever obtain exclusive control of this vast sea, and by what right did she convey it to the United States? For it appears that in the conveyance of this territory by Russia to the United States they drew the dividing or boundary line down through the center of Behring Straits, and then down through the Aleutian Islands to the meridian 173 degrees west longitude. May they not as well have continued the line south through the Pacific Ocean to the South Pole, and thus divided the whole Pacific between the United States and Russia. I say it is fortunate that these British vessels have been seized, because by this means, and probably only by such means, could one ever hope for a satisfactory solution of this question.

It would be a hopeless undertaking for an obscure citizen of small means to seek redress, either through our courts or through Congress, for wrongs inflicted upon him by this soulless and overbearing company. The immense profits accruing to the company from their franchise affords them the means to head off legal redress and to control Congressmen by subsidizing them.

Once in a while the Government sends out a commissioner to examine into the company's affairs, to see if they kill the correct number of seals, etc. When he arrives in San Francisco, a fine steamer is ready to receive him and convey him to the islands, and, being so nicely treated and entertained, he could hardly fail to find everything all right.

Then he returns to Washington and the company requires the service of an agent to watch Congress, and see that no unfavorable legislation is enacted. So he gets paid by the Government to watch the company, and paid by the company to watch the Government, and consequently his trip is a very pleasant and profitable one.

Our revenue vessels have been kept cruising in the Alaskan waters for years, under various pretenses, but their real business is to watch the little traders and hunters, and to protect the interests of the Alaska Commercial Company. They go there to prevent trading and they become traders themselves. This has been brought home so closely to the Government that notice had to be taken of it and a check placed upon it.

But I must really beg pardon for making this article so long. The only point that I really intended to call attention to is the new question that is raised by the seizure of these vessels. Does the lease of the Alaska Commercial Company give them the exclusive use of Behring Sea? Will England admit this? I think not, and it is to be hoped she will not. If we have a corporation so powerful that our Government can not control it perhaps England may help us out. Humiliating as this may seem, it is better than the present state of affairs. It were as well that Alaska had remained Russian territory as to have become American only in name. By publishing this and getting public attention directed to this subject you may accomplish great good and contribute largely to prevent a renewal of this infamous lease, and thus break up an overbearing and oppressive monopoly.

Respectfully,

J. J. WINANT.

[Inclosure 8.]

Copy of letter from Daniel Munroe, master of schooner Onward.

SCHOONER ONWARD, PORT ILIOLUK,
Oonalaska, August 7, 1886.

DEAR SIR: On the 2d, while the *Onward* was in latitude 54° 52' N., longitude 167° 55' W., and about 70 miles from the nearest land, the United States revenue-cutter *Corwin*, having the schooners *Thornton* and *Carolina* in tow, boarded us and sent a crew on board and towed us in here, where we are lying at present, with sails bent and seals on board, and a watchman in charge, but can't find out what they intend to do with us, so I can't say anything more about it at present.

I met the *Favorite* on the 28th. Captain McLean was on board of us. We gave him

508 skins and they had 1,290 they took themselves, making them about 1,800 total; and, as we were in sight of each other until the night of the 1st instant, he must have made a good catch, for we have 400 skins on board at present that we took in four days, and I am positive his crowd could take twice that number, as we have not got the best of sealers.

I believe all the schooners done well, and I trust they will get away all right. There is no cutter out at present, as there is only two of them up here, one of them up in the Arctic, and the other that brought us here is still watching us here.

We may find out to-day how they are going to dispose of us, but I am in hopes they made false steps, and that they can do nothing more than spoil the season.

They took the schooner *San Diego* in here about a month ago and took the skins out of her, and unbent her sails and put everything ashore, and they are sending the crew to San Francisco to-day in one of the Fur Company's steamers, *St. Paul*.

Later on, have heard nothing more, only the crews of the *Thornton* and *Carolina* are going to San Francisco to-day in the steamer *St. Paul*, except the captain and one man of each vessel, but they took none of our crew.

There are rumors afloat that the three schooners are to be laid up here all winter, and that we are to be taken to Sitka, but no certainty. I wrote you this morning as the boat was leaving the wharf, thinking that she was going away, but she came to anchor in the roads, and I don't think I finished it; I was afraid of being late. We sent a protest on board the cutter against the action of the authorities in seizing the vessel on the high seas, but I don't know if it will amount to much; there is no notary public here to sign it. I have nothing more to write you. Trusting things will turn out better than we expect,

I remain, etc.,

CHARLES SPRING, Esq.,
Victoria.

DANL. MUNROE.

[Inclosure 9.]

Mr. William Munsie to the Hon. George E. Foster.

VICTORIA, BRITISH COLUMBIA, November 15, 1886.

DEAR SIR: As our sealing schooners will leave Victoria on or about the 10th of December for the sealing expeditions of 1887 many of them will not return to Victoria until September, or, in other words, not until the Behring Sea trip is completed. We are exceedingly anxious to know what is being done in the case of our seized vessels, and whether or not we may look for protection against what we, and even the American press, is pleased to term piracy. We have no occasion to interfere with the Alaska Commercial Company's rights on the Pribiloff Islands, nor do our vessels come anywhere near land. The fact is we take out at sea from 50 to 100 miles, what the Hon. H. Elliot, of the Smithsonian Institution, in his report of 1874, on the Seal Island, calls bachelor seals, or those not required on breeding grounds, to which report I would be pleased to draw your attention. The industry is of too much importance to Canada to allow the Alaska Commercial Company to dictate who shall and who shall not take seals on the high or Behring Sea.

For the season of 1886 there was brought into Victoria, from the Pacific Ocean and Behring Sea, and shipped therefrom to England and the United States, 50,000 skins, valued at about \$350,000. It is evident that the business is worth protecting. Just here allow me to contradict a statement made by Special Agent Single, of the United States Treasury Department, in which he says that three-fourths of the seals shot in the water sink and are lost.

From the experience of our hunters I maintain but a small percentage is lost in this way, probably not over one in fifty. I doubt if the loss is as great as that caused by the rejection of skins after being clubbed by the Alaska Commercial Company on the islands, to which reference is made in the tables of Elliot's report. The Americans themselves in 1824 repudiated Russia's claim to the Behring Sea, when Russia seized the Boston brig *Pearl* for whaling. Two years later Russia had to give the vessel up and paid damages.

In conclusion I may say that the seized skins are liable to be valueless on account of neglect. Captain Ogilvie's body has been discovered. A jury was impaneled, and a verdict was given in accordance with the facts of the case. Hoping you may be pleased to advise us in this matter before our vessels sail, you will confer a great favor on

Your most obedient servant,

WM. MUNSIE,
Victoria, British Columbia.

No. 118.

Mr. Stanhope to Lord Lansdowne.

[Telegram from the secretary of state for the colonies on the 1st of December, 1886.]

Her Majesty's Government has made a protest against the seizures by the United States of Canadian schooners in Alaskan waters. An authentic report of the trial is awaited by the United States Government.

SECRETARY OF STATE.

The GOVERNOR-GENERAL,
Ottawa.

No. 119.

Lord Lansdowne to Sir L. West.

OTTAWA, December 9, 1886.

SIR: With reference to the administrator's dispatches No. 15 and 16, of the 28th September last, I have the honor to forward, for your information, a copy of a dispatch which I have addressed to the right honorable the secretary of state for the colonies, transmitting a copy of an approved report of a committee of my privy council, dated the 29th ultimo, dealing with the seizure of the Canadian schooners *Carolina*, *Onward*, and *Thornton* by the United States revenue-cutter *Corwin* while fishing for seals in Behring Sea.

I have, etc.,

LANSDOWNE.

MINISTER AT WASHINGTON.

No. 120.*Sir L. West to the Marquis of Lansdowne.*

WASHINGTON, December 12, 1886.

MY LORD: I have the honor to acknowledge the receipt of your excellency's dispatch No. 82, of the 9th instant inclosing for my information copy of a dispatch and of its inclosures addressed by your excellency to the secretary of state for the colonies, dealing with the seizure of the Canadian schooners *Carolina*, *Onward*, and *Thornton* by the United States revenue-cutter *Corwin* while fishing for seals in Behring Sea.

I have, etc.,

L. S. SACKVILLE WEST.

His Excellency the MARQUIS OF LANSDOWNE, G. C. M. G.

No. 121.

Mr. Stanhope to the Marquis of Lansdowne.

DOWNING STREET, December 16, 1886.

MY LORD: With reference to my telegram of the 1st instant, respecting the seizure of Canadian sealing schooners in Behring Sea, I have the honor to transmit to you for communication to your Government copies of the letters noted in the margin, with their inclosures, which have been received from the foreign office.

It will be seen that the United States Government are awaiting an authentic report of the proceedings in question before replying to the representations made to them by Her Majesty's minister at Washington.

I have, etc.,

EDWARD STANHOPE.

Gov. Gen. the Most Hon. the MARQUIS OF LANSDOWNE, G. O. M. G.

 [Inclosure 1.]
The Foreign Office to the Colonial Office.

FOREIGN OFFICE, November 16, 1886.

SIR: With reference to the letter from this office of the 9th instant, I am directed by the secretary of state for foreign affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copies of dispatches, as marked in the margin, from Her Majesty's minister at Washington, relating to the seizure of sealing schooners in Behring Sea.

I am, etc.,

T. V. LISTER.

The UNDER SECRETARY OF STATE,
Colonial Office.

 [Inclosure 2.]
Sir L. West to the Earl of Iddesleigh.

WASHINGTON, October 21, 1886.

MY LORD: Upon the receipt of your lordship's dispatch No. 181, of the 9th ultimo, I immediately addressed a note to the secretary of state, in accordance with the instructions therein contained, and copy of which is herewith inclosed, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure of certain British Columbian seal schooners by the United States revenue cruiser *Corwin*, but to which I have received no reply.

Upon the receipt of your lordship's telegram No. 15, of yesterday's date, I addressed the note, copy of which is likewise inclosed, protesting in the name of Her Majesty's Government against the said seizures, and reserving rights to compensation.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 3.]

Sir L. West to Mr. Bayard.

WASHINGTON, September 27, 1886.

SIR: I have the honor to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces on the Pacific Station respecting the alleged seizure of three British Columbian seal schooners by the United States revenue cruiser *Corwin*, and I am, in consequence, instructed to request to be furnished with any particulars which the United States Government may possess relative to this occurrence.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 4.]

Sir L. West to Mr. Bayard.

WASHINGTON, October 21, 1886.

SIR: With reference to my note of the 27th ultimo, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure in the North Pacific waters of three British Columbian seal schooners by the United States revenue cruiser *Corwin*, and to which I am without reply, I have the honor to inform you that I am now instructed by the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, to protest in the name of Her Majesty's Government against such seizure, and to reserve all rights to compensation.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 5.]

Sir L. West to the Earl of Iddesleigh.

WASHINGTON, October 21, 1886.

MY LORD: With reference to your lordship's telegram No. 16, of this day's date, I have the honor to inform your lordship that no answer has as yet been returned to the communication which, in obedience to the instructions contained in your lordship's dispatch No. 181, of the 9th ultimo, I addressed to the Secretary of State, asking to be furnished with any particulars which the United States Government may possess relative to the seizures of British vessels in Behring Sea, and that I have at present no knowledge of any appeal having been made against the decisions of the United States courts condemning the parties concerned. The above information was telegraphed to your lordship this day.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 6.]

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, November 20, 1886.

SIR: I am directed by the Earl of Iddesleigh to request that you will state to Mr. Secretary Stanhope that the telegram from the governor-general of Canada, relating to the seizure of British schooners in Behring Sea, which accompanied your letter of the 14th instant, has been communicated to Her Majesty's minister at Washington.

I am now to transmit to you a telegram received from Sir L. West in reply, and I am to state that the dispatch numbered 250, to which he alludes, has not yet been received, and that a copy of it shall be communicated, for Mr. Stanhope's information, immediately on its arrival.

I am, etc.,

T. V. LISTER.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 7.]

Telegram from Sir L. West.

NOVEMBER 19, 1886.

Your lordship's telegram No. 20. See my dispatch No. 250. Secretary of State will reply to your lordship's No. 214 as soon as possible.

[Inclosure 8.]

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, November 26, 1886.

SIR: With reference to the letter from this office of the 20th instant, I am directed by the secretary of state for foreign affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copies of two dispatches, as marked in the margin, from Her Majesty's minister at Washington, relating to the seizure of fishing vessels in Alaskan waters.

I am, etc.,

T. V. LISTER.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 9.]

Sir L. West to the Earl of Iddesleigh.

WASHINGTON, November 12, 1886.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch No. 214, of the 30th ultimo, relative to the seizure of the schooners *Carolina*, *Onward*, and *Thornton*, in the waters of the Northern Pacific Ocean, adjacent to Vancouver Island, Queen Charlotte Islands, and Alaska, and which formed the subject of my note to the Secretary of State of the 27th September last, to which no reply has been received.

At an interview which I had this day with Mr. Bayard I alluded to my note, asking for any particulars which the United States Government might possess respecting the seizures in question, and he immediately said that he must apologize for not having replied to it, but he had, he said, as yet received no report of the procedure of the courts in the matter, and had, for this reason, delayed his answer.

I then said that I was instructed to make him acquainted with the information with which Her Majesty's Government had been furnished respecting this matter, and that I had received a dispatch to this effect from your lordship, the substance of which I proceeded to give him. He remarked that he was not in possession of the information contained in your lordship's dispatch, owing, he presumed, to the communication with England by Vancouver Island being quicker than that with Washington by Portland (Oregon).

In fact, he said the Territory was not properly organized. He had not, moreover, reached the exact nature of the rights ceded by Russia to the United States, but it seemed clear that Russia, previous to the cession, contended that Behring Sea was a *mer ferme*; whereupon I remarked, "and against which contention the United States protested." "Yes," he replied, "at that time."

Mr. Bayard's manner was most conciliatory, but he evidently wished to avoid further discussion on the contents of your lordship's dispatch, of which he asked me for a copy, which I placed in his hands.

I have, etc.,

L. S. SACKVILLE WEST.

The EARL OF IDDLESLEIGH, G. C. B.

[Inclosure 10.]

Sir L. West to the Earl of Iddesleigh.

WASHINGTON, November 14, 1886.

MY LORD: With reference to my dispatch No. 234, of the 21st ultimo, I have the honor to inclose to your lordship herewith copy of a note which I have received from the Secretary of State explaining and apologizing for the delay which has occurred in replying to my note of 27th September last, asking for information respecting the seizure by the United States revenue-cutter *Corwin*, in the Behring Sea, of British vessels, and noting the protest on the part of Her Majesty's Government against such seizures contained in my note of 21st ultimo, copy of which was inclosed in my above-mentioned dispatch.

I have, etc.,

The EARL OF IDDESLEIGH, etc.

L. S. WEST.

[Inclosure 11.]

Mr. Bayard to Sir L. West.

DEPARTMENT OF STATE.

SIR: The delay in my reply to your letters of September 21 and October 21 asking for information in my possession concerning the seizure by the United States revenue-cutter *Corwin*, in the Behring Sea, of British vessels, for an alleged violation of the laws of the United States in relation to the Alaska seal fisheries, has been caused by my waiting to receive from the Treasury Department the information you desired. I tender the fact in apology for the delay and as the reason for my silence, and repeating what I said verbally to you in our conversation this morning, I am still awaiting full and authentic reports of the judicial trial and judgment in the cases of the seizures referred to.

My application to my colleague, the Attorney-General, to procure an authentic report of these proceedings, was promptly made, and the delay in furnishing the report doubtless has arisen from the remoteness of the place of trial.

So soon as I am able I will convey to you the facts as ascertained in the trial and the rulings of law as applied by the court.

I take leave also to acknowledge your communication of the 21st of October, informing me that you had been instructed by the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, to protest against the seizure of the vessels above referred to and to reserve all rights of compensation, all of which shall receive respectful consideration.

I have, etc.,

Sir L. WEST, ETC.

T. F. BAYARD.

[Inclosure 12.]

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, November 29, 1886.

SIR: With reference to my letter of the 26th inst., I am directed by the secretary of state for foreign affairs to transmit to you, to be laid before Mr. Secretary Stanhope, copy of a dispatch as marked in the margin in regard to the seizure of sealing schooners in Behring Sea.

I am, etc.,

The UNDER SECRETARY OF STATE,
Colonial Office.

T. V. LISTER.

[Inclosure 13.]

Sir L. S. West to the Earl of Iddesleigh.

WASHINGTON, November 19, 1886.

MY LORD: Upon the receipt of your lordship's telegram No. 10 of yesterday's date, I sought an interview with the Secretary of State and asked him whether he had received the official report of the proceedings of the court at Sitka (Alaska) against the

British vessels seized in Behring Sea. Mr. Bayard replied in the negative and said that he had been urging the Attorney-General in the matter since he last saw me.

It would be, he continued, a complicated question of jurisdiction, for he had been told that many of the seal skins found on board British vessels were skins of seals which had not been shot, but clubbed, which proved that a landing had been effected.

He said that he would reply to your lordship's dispatch, which I had communicated to him, as soon as possible.

I have, etc.,

L. SACKVILLE WEST.

The EARL OF IDDESLEIGH, etc.

No. 122.

Colonial Office to Lord Lansdowne.

DOWNING STREET, *January 14, 1887.*

MY LORD: I am directed by the secretary of state to transmit to you, for the information of your Government, the document specified in the annexed schedule.

I have, etc.,

ROBERT G. W. HERBERT.

The officer administering the Government of Canada.

[Inclosure.]

Foreign Office to Colonial Office.

FOREIGN OFFICE, *January 23, 1887.*

SIR: I am directed by the secretary of state for foreign affairs to request that you will inform the secretary of state for the colonies that Her Majesty's minister at Washington has reported that the United States ship *Thetis* has been ordered to join the Pacific squadron, and will be employed in the waters of Alaska.

I am, etc.,

P. W. CURRIE.

The UNDER SECRETARY OF STATE,
Colonial Office.

No. 123.

Lord Lansdowne to Mr. Stanhope.

OTTAWA, *January 15, 1887.*

SIR: With reference to previous correspondence respecting the seizure of Canadian sealing schooners in Behring Sea, I have the honor to transmit to you, in order that reparation may be sought from the United States Government, a copy of an approved report of a committee of the privy council of Canada, submitting papers containing full statements of claims for damage sustained, and compensation demanded by the owners, masters, and mates of the schooners *Onward*, *Thornton*, and *Carolina*.

I have, etc.,

LANSDOWNE.

Right Hon. EDWARD STANHOPE, etc.

[Inclosure 1.]

Certified copy of a report of a committee of the honorable the privy council for Canada, approved by his excellency the governor-general in council on the 3rd January, 1887.

On a report, dated 27th December, 1886, from the minister of marine and fisheries, submitting papers containing full statements of claims for damage sustained, and compensation demanded by the owners, masters, and mates of the sealing schooners *Onward*, *Thornton*, and *Carolina*, which vessels were seized by the United States revenue-cutter *Corwin*, in Behring Sea, in August, 1886, and concerning which full representations have been made to Her Majesty's Government in dispatches bearing date respectively the 23d and 24th of September, and the 29th of November, 1886, and recommending that copies of the same be transmitted to the right hon. the principal secretary of state for the colonies, in order that reparation may be sought from the United States Government for all damages and loss to British subjects consequent upon the illegal action of the United States officers in the cases referred to.

The committee, concurring in the above, advise that your excellency be moved to transmit copies of the papers accordingly.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council, Canada.

[Inclosure 2.]

STATEMENT OF CLAIMS OF OWNERS AND OFFICERS OF SCHOONERS ONWARD, CAROLINA, THORNTON, AND FAVORITE.

I.

The claim of Daniel Munro, master of the British schooner Onward.

I claim against the Government of the United States, or whom it may concern, the sum of eight thousand dollars (\$8,000.00) for loss of wages, layout, damages, and indemnity for illegal seizure of the schooner *Onward*, by the commander of the United States steamer *Corwin*, in the Behrings Sea, on the first August, 1886 (or thereabouts) and for detention and subsequent wrongful imprisonment in gaol at Sitka.

DANIEL MUNRO,
By EDGAR CROW BAKER,
His Attorney in fact.

VICTORIA, B. C., 20th October, 1886.

II.

The claim of Hans Guttormsen, master of the British schooner Thornton.

I claim against the Government of the United States, or whom it may concern, the sum of eight thousand dollars (\$8,000.00) for loss of wages, layout, damages, and indemnity for illegal seizure of the schooner *Thornton*, by the commander of the United States steamer *Corwin*, in the Behrings Sea, on the 1st August, 1886, and for detention and subsequent wrongful imprisonment in gaol at Sitka.

HANS GUTTORMSEN,
By EDGAR CROW BAKER,
His Attorney in fact.

VICTORIA, B. C., 20th October, 1886.

III.

British Columbia, to wit: Damages claimed by the owner of schooner Carolina in respect of her seizure by the United States S. S. Corwin, while fishing in Behrings Sea.

I, William Munsie, of Victoria, B. C., owner of the British schooner *Carolina*, do solemnly and sincerely declare:

(1) That the value of the said vessel at the time of her seizure by the United States S. S. *Corwin* was \$4,000, and the cost of her outfit when she left Victoria for the Behrings Sea was \$3,000.

(2) That she carried a crew of eleven men, and the estimated wages due to the master and men for four months from the 15th day of May, 1886, to the time of the return of the said men to Victoria is \$4,500.

(3) That at the time of her capture by the *Corwin* she had 686 seal skins, which were worth, at \$7 each, \$4,802.

(4) That the probable catch for the season, estimated on the number of skins taken by the schooner *Mary Ellen*, which was 3,554 skins, and by the number of skins taken when the said schooner was captured, would be 3,000 skins, the value of which would be \$21,000.

(5) That the loss sustained by me in consequence of the detention of the said schooner, and my being unable to employ her in ordinary work after the sealing season is over, is \$450 a month, which sum I claim until the vessel is returned to me in good order and condition.

(6) That I have also paid and incurred liabilities connected with the arrest of the said vessel and in defence of the master and crew, for legal and other expenses, \$1,000.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the act passed in the 37th year of Her Majesty's reign, intituled "An act for the suppression of voluntary and extra-judicial oaths."

WILLIAM MUNSIE.

Taken and declared before me, this 20th October, 1886.

M. W. TYRWHITT DRAKE,
Notary Public, Victoria, B. C.

IV.

British Columbia, to wit: Damages claimed by the owner of the schooners Onward and Favorite, in respect of their seizure by the United States S. S. Corwin, while fishing in Behrings Sea.

I, Charles Spring, of Victoria, B. C., owner of the British schooners *Onward* and *Favorite*, do solemnly and sincerely declare:

(1) That the value of the said vessel *Onward* at the time of her seizure by the United States S. S. *Corwin* was \$4,000, and the cost of her outfit when she left Victoria for the Behrings Sea was \$1,000.

(2) That she carried a crew of 20 men, and the estimated wages due to the master and men for four months from the 12th day of June to the time of their return to Victoria is \$7,500.

(3) That at the time of her capture by the *Corwin* she had 400 seal skins, which were worth \$2,800.

(4) The probable catch for the season, estimated on the number of skins taken by the schooners and by the number of skins taken when the said schooner was captured, would be 3,000 skins, the value of which, at \$7 skin, would be \$21,000.

(5) That the loss sustained by me, in consequence of the detention of the said schooner, and my being unable to employ her in ordinary work after the sealing season is over, is \$500 a month, which sum I claim until the vessel is returned to me in good order and condition.

(6) That I have also paid and incurred liabilities, connected with the arrest of the said vessel and in defence of the master and crew, for legal and other expenses, \$1,000; and I also claim \$3,000 damages because the officer in command of the United States S. S. *Corwin*, as she passed the *Favorite*, ordered her to cease sealing, which she did, and thereby lost her season.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of an act passed in the 37th year of Her Majesty's reign, intituled: "An act for the suppression of voluntary and extra-judicial oaths."

C. SPRING.

Taken and declared before me, this 18th October, 1886.

M. W. TYRWHITT DRAKE,
Notary Public, Victoria, B. C.

V.

British Columbia, to wit: Damages claimed by the owner of the steam vessel Thornton, for illegal seizure by the United States S. S. Corwin, while fishing in Behrings Sea.

I, James Douglas Warren, of Victoria, B. C., owner of the British steam vessel *Thornton*, do solemnly and sincerely declare:

(1) That the value of the said vessel at the time of her seizure by the United States S. S. *Corwin* was \$6,000, and the cost of her outfit when she left Victoria for the Behrings Sea was \$4,000.

(2) That she carried a crew of fifteen men, and the estimated wages due to the master and men for four months from the 26th day of May to the 1st day of October, the date of their return to Victoria, which I have to pay, is \$5,100.

(3) That at the time of her capture by the *Corwin* she had 403 seal skins, which, at \$7 each, were worth \$2,821.

(4) That the probable catch for the season, estimated on the number of skins taken by the schooner *Mary Ellen*, and by the number of skins taken when the said vessel was captured, would be 3,000, of the value of \$21,000.

(5) That the loss sustained by me in consequence of the detention of the said vessel, and by being unable to employ her in ordinary work after the sealing season is over, is \$500 a month, which sum I claim until the vessel is returned to me in good order and condition.

(6) That I have also paid and incurred liabilities connected with the arrest of the said vessel and in defence of the master and crew, for legal and other expenses, \$1,000.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the act passed in the 37th year of Her Majesty's reign, intituled "An act for the suppression of voluntary and extra judicial oaths."

J. D. WARREN.

Taken and declared at Victoria this 19th day of October, 1886, before me.

M. W. TYRWHITT DRAKE,
Notary Public.

VI.

VICTORIA, B. C.

I, James Blake, mate of the schooner *Carolina*, claim \$5,000 as damages for my illegal arrest and imprisonment on board the *Corwin* and in gaol at Sitka from 1st of August to 16th September, 1886.

JAMES BLAKE.

Witness:

M. W. TYRWHITT DRAKE.

VII.

VICTORIA, B. C.

I, John Margotich, mate of the schooner *Onward*, claim \$5,000 as damages for my illegal arrest and imprisonment on board the United States vessel *Corwin*, and in gaol at Sitka from the 23rd August, 1886, to 29th September, in the same year.

JOHN MARGOTICH,
By C. SPRING,
His Attorney.

Witness:

M. W. TYRWHITT DRAKE.

VIII.

VICTORIA, B. C., 19th October, 1886.

I, Harry Norman, mate of the steamer *Thornton*, claim as compensation for my illegal arrest and imprisonment on board the United States steamship *Corwin*, and in gaol at Sitka, the sum of \$5,000.

HARRY NORMAN,
By J. D. WARREN,
His Attorney.

Witness:

M. W. TYRWHITT DRAKE,
Victoria, B. C.

IX.

VICTORIA, B. C., 19th October, 1886.

I, James Ogilvie, master of the schooner *Carolina*, claim as compensation for my arrest and imprisonment on board the United States steamship *Corwin*, and in gaol at Sitka, the sum of \$5,000.

JAMES OGILVIE,
By A. J. BECHTIE,
His Attorney.

Witness:

M. W. TYRWHITT DRAKE.

X.

Abstract of damages.

Damages as per declaration.	Schooner Onward.	Steam-ship Thornton.	Schooner Carolina.	Schooner Favorite.
Value of vessel and outfit.....	\$5,000	\$10,000	\$7,000	.....
Wages of crew.....	7,500	5,100	4,500	.....
Value of sealskins on board.....	2,800	2,821	4,802	.....
Value of probable catch.....	21,000	21,000	21,000	.....
Loss sustained by detention. (Paragraph 5).....	.....	.....	.....	.....
Legal and other expenses.....	1,000	1,000	1,000	.....
Loss sustained by order to cease sealing.....	.....	.....	.....	\$3,000

For illegal arrest and imprisonment.

Daniel Munroe, master of <i>Onward</i> , for indemnity for illegal seizure, loss, etc.....	\$3,000
John Margotich, mate of <i>Onward</i>	5,000
Harry Norman, mate of <i>Thornton</i>	5,000
James Ogilvie, master of <i>Carolina</i>	5,000
James Black, mate of <i>Carolina</i>	5,000
Hans Guttormsen, master of <i>Thornton</i>	8,000

No. 124.

Sir H. Holland to the Marquis of Lansdowne.

DOWNING STREET, January 19, 1887.

MY LORD: With reference to previous correspondence respecting the seizure by the United States authorities of Canadian sealing schooners in Behring Sea, I have the honor to transmit to you, for the information of your Government, copies of two letters, with their inclosures, from the foreign office, on the subject.

I have, etc.,

H. T. HOLLAND.

Gov. Gen., the Most Hon. the MARQUIS OF LANSDOWNE, G. C. M. G.,
etc.

[Inclosure 1.]

The foreign office to the colonial office.

FOREIGN OFFICE, December 6, 1886.

SIR: I laid before the Earl of Iddesleigh your letter of the 30th ultimo, inclosing the telegram from the Governor-General of Canada inquiring whether vessels which are now equipping in British Columbia for the fisheries in Behring Sea will be exposed to seizure by United States cruisers.

I am directed by his lordship to request that you will lay before Mr. Secretary Stanhope the inclosed copy of telegraphic instructions which have been addressed to Her Majesty's minister at Washington, directing him to endeavor to obtain from the United States Government an assurance that, pending a settlement of the question of international law which has arisen, no more seizures will be made beyond the territorial waters of Alaska.

Mr. Stanhope will observe that Sir L. West is desired to communicate to the Marquis of Lansdowne the result of his application to the United States Government.

I am, etc.,

P. W. CURRIE.

The UNDER SECRETARY OF STATE,
Colonial Office,

[Inclosure 2.]

Telegram to Sir L. West, No. 23.

FOREIGN OFFICE, December 6, 1886, 3.30 p.m.

Vessels equipping in British Columbia for Behring Sea fisheries, Canadian Government inquire whether exposed to seizure.

Seek assurance that pending settlement of question no seizure of British vessels will be made beyond the territorial waters of Alaska.

Communicate result to Governor-General of Canada,

IDDESLEIGH.

[Inclosure 3.]

The foreign office to the colonial office.

FOREIGN OFFICE, December 28, 1886.

SIR: With reference to your letter of the 14th instant, and to previous correspondence, I am directed by the secretary of state for foreign Affairs to transmit to you, to be laid before Mr. Secretary Stanhope, a copy of a dispatch from Her Majesty's minister at Washington, on the subject of the Behring Sea fisheries.

I am, etc.,

P. W. CURRIE.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 4.]

Sir L. West to the Earl of Idlesleigh.

WASHINGTON, December 10, 1886.

MY LORD: I have the honor to acknowledge the receipt of your lordship's telegram No. 28, of the 6th instant, and to inclose to you herewith copy of a note which I addressed to the Secretary of State in the sense of it.

This morning I had an interview with Mr. Bayard, and spoke to him on the subject of my note. He said that he was still waiting for the report of the Attorney General, but that it would, of course, not influence the views of Her Majesty's Government, nor indeed those of his Department, as to the nature of the jurisdiction over Behring Sea, ceded by Russia to the United States in 1867, which, he said, was a complicated question, but one which would be met in all fairness by the United States Government. He continued to explain to me that the value of Alaska consisted in the seal fisheries; that the seals frequented chiefly the islands of St. Paul and St. George, where the great catch was made, and that these islands, although situated (as he stated) more than 200 miles from the mainland, were, he conceived, comprised in the jurisdiction ceded by Russia; but he did not wish to pronounce upon this point at present. He would observe, however, that the value of the seal "rookeries" on these islands would be destroyed if it was opened to all vessels to kill seals outside the 3-mile limit, for no seals would ever reach them. I did not discuss this question with Mr. Bayard, and merely reminded him that I hoped that he would answer the communication I had made to him, and which was the object of my visit.

I have, etc.,

L. S. SACKVILLE WEST.

The EARL OF IDDESLEIGH, etc.

[Inclosure 5.]

Sir L. West to Mr. T. F. Bayard.

WASHINGTON, December 7, 1886.

SIR: Referring to your note of the 12th ultimo, on the subject of the seizure of British vessels in the Behring Sea, and promising to convey to me, as soon as possible, the facts as ascertained in the trial and rulings of law, as applied by the court,

I have the honor to state that vessels are now, as usual, equipping in British Columbia for fishing in that sea. The Canadian Government, therefore, in the absence of information, are desirous of ascertaining whether such vessels fishing in the open seas and beyond the territorial waters of Alaska would be exposed to seizure, and Her Majesty's Government, at the same time, would be glad if some assurance could be given that, pending the settlement of the question, no such seizures of British vessels will be made in Behring Sea.

I have, etc.,

The Hon. T. F. BAYARD, etc.

L. S. SACKVILLE WEST.

No. 125.

Sir H. Holland to the Marquis of Lansdowne.

DOWNING STREET, January 19, 1887.

MY LORD: With reference to your dispatch No. 281, of the 27th of November last, and to previous correspondence respecting the seizure of certain Canadian schooners engaged in the seal fishery in Behring Sea, I have the honor to transmit to you, for the information of your lordship's Government, a copy of a letter from the foreign office, with its inclosures, on the subject.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS OF LANSDOWNE, etc.

[Inclosure 1.]

Foreign office to colonial office.

FOREIGN OFFICE, January 10, 1887.

SIR: With reference to your letter of the 4th instant, I am directed by the Earl of Iddesleigh to transmit to you, to be laid before Mr. Secretary Stanhope, copies of the dispatches noted in the margin, which have been addressed to Her Majesty's minister at Washington, relative to the seizure of the three British sealing schooners in Behring Sea by the United States cruiser *Corwin*.

I am, etc.,

P. W. CURRIE.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 2.]

The Earl of Iddesleigh to Sir L. West.

FOREIGN OFFICE, January 8, 1887.

SIR: Referring to previous correspondence in regard to the case of the three Canadian schooners engaged in the seal fishery in Behring Sea, I transmit to you herewith a copy of a letter from the colonial office, explaining the views of the Dominion Government in the matter.

Nearly four months have now elapsed since my dispatch No. 181, of the 9th of September last, was addressed to you, in which you were directed to invite the Government of the United States to furnish you with any particulars they might possess relative to the occurrence, and further instructions were sent to you in my subsequent dispatches, Nos. 208, 209, 214, and 232, of the 20th, 21st, and 30th of October, and 18th of November, but up to the present date no reply has been received from that Government as to the alleged proceedings of their officials.

I have now to instruct you to express to Mr. Bayard the concern of Her Majesty's Government at receiving no reply to the serious representations which they have felt compelled to make on the information which has reached them respecting the proceedings of the United States cruiser *Corwin* in seizing British sealing schooners on the high seas, and to urge with all the force which the gravity of the case requires the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels, and of their masters and crews.

I am, etc.,

The Hon. Sir L. West.

IDDESLEIGH.

[Inclosure 3.]

Copy of telegram No. 1—Earl of Idlesleigh to Sir L. West.

FOREIGN OFFICE, January 8, 1887—6.05 p. m.

Your dispatch No. 254.

Further papers go by mail of 8th.

Express to Secretary of State concern of Her Majesty's Government at receiving no reply to their grave representation respecting proceedings of United States cruiser in seizing British vessels on the high seas.

Urge his immediate attention to this matter with all the force which the gravity of the case requires.

No. 126.

Sir L. West to Mr. Bayard, February 1, 1887.

(Omitted here, being printed *supra*, No. 8.)

No. 127.

Sir L. West to Mr. Bayard, February 4, 1887.

(Omitted here, being printed *supra*, No. 10.)

No. 128.

Sir L. West to Lord Lansdowne.

Re ALASKA SEIZURES.

FEBRUARY 4, 1887.

TO GOVERNOR-GENERAL,

Ottawa :

Secretary of State has informed me that orders have been given that all pending proceedings are to be discontinued, vessels seized discharged, and all persons who have been arrested in connection therewith released. He adds that the conclusion of any questions involved is reserved until the papers relative to the question have arrived.

S. Ex. 3—46

WEST.

No. 129.

*Sir L. West to the Marquis of Lansdowne.*WASHINGTON, *February 4, 1887.*

My LORD: With reference to my telegram of this day's date respecting the seizure of British vessels in Behring Sea, I have the honor to inclose to your excellency herewith copy of the note which I received from the Secretary of State, the substance of which was therein embodied.

I have, etc.,

L. S. SACKVILLE WEST.

The Marquis of LANDSDOWNE, G. O. M. G., etc

[Inclosure.]

Mr. Bayard to Sir L. West, February 3, 1887.(Omitted here, being printed *supra*, No. 9.)

No. 130.

*Sir H. Holland to the Marquis of Lansdowne.*DOWNING STREET, *February 5, 1887.*

MY LORD: With reference to my secret dispatch of the 19th ultimo and to previous correspondence respecting the seizure of Canadian sealing schooners in Behring Sea, I have the honor to transmit to you, for communication to your ministers, copies of two letters, with their inclosures, from the foreign office, on the subject.

I have, etc.,

H. T. HOLLAND.

Gov. Gen., the most Hon. the Marquis of LANDSDOWNE,
G. O. M. G., etc.

[Inclosure 1.]

*Foreign Office to Colonial Office.*FOREIGN OFFICE, *January 27, 1887.*

SIR: With reference to previous correspondence, I am directed by the secretary of state for foreign affairs to transmit to you to be laid before Secretary Sir Henry Holland, a copy of a dispatch from Her Majesty's minister at Washington, on the subject of the seizure of British sealing vessels in Behring Sea.

I am, etc.,

P. W. CURRIE.

The UNDER-SECRETARY OF STATE,
Colonial Office.

[Inclosure 2.]

Sir L. West to the Foreign Office.

WASHINGTON, January 13, 1887.

MY LORD: With reference to my dispatch No. 7, of the 7th instant, I have the honor to inclose to your lordship herewith copy of a note which I have received from the Secretary of State, in answer to my communication, expressing the concern of Her Majesty's Government at receiving no reply to their representations respecting the seizure of British vessels in Behring Sea.

I have, etc.,

L. S. SACKVILLE WEST.

The SECRETARY OF STATE,
Foreign Affairs.

[Inclosure 3.]

Mr. Bayard to Sir L. S. West, January 12, 1887.(Omitted here, being printed *supra*, No. 7.)

[Inclosure 4.]

Foreign Office to Colonial Office.

FOREIGN OFFICE, January 29, 1887.

SIR: With reference to previous correspondence, I am directed by the secretary of state for foreign affairs to transmit to you, to be laid before Secretary Sir Henry Holland, a copy of a dispatch as marked in the margin from Her Majesty's minister at Washington, on the subject of his representations to the United States Government with regard to the seizure of British vessels in Behring Sea.

I am, etc.,

P. W. CURRIE.

The UNDER-SECRETARY OF STATE,
Colonial Office.

[Inclosure 5.]

Sir L. West to the Earl of Iddesleigh.

WASHINGTON, January 10, 1887.

MY LORD: I have the honor to acknowledge the receipt of your lordship's telegram, No. 1, of the 8th instant, and to inclose to your lordship herewith copy of a note which I immediately addressed to the Secretary of State, referring to my notes of the 27th September, 21st October, and 7th December last, and to your lordship's dispatch, No. 214, of the 30th October, copy of which, as reported in my dispatch No. 250, of the 12th November, I placed in his hands, and expressing the sense in which Her Majesty's Government viewed his silence with regard to the communications which had been made to him respecting the seizure of British vessels in Behring Sea.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 6.]

Sir L. West to Mr. Bayard, January 9, 1887.(Omitted here, being printed *supra*, No. 6.)

No. 131.

Lord Lansdowne to Sir H. Holland.

MARCH 31, 1887.

Vessels now being fitted out for this year's trip to Behring Sea. Owners inquire whether, when not near land, they may depend upon being unmolested by United States cruisers.

Please reply by cable.

LANSDOWNE.

No. 132.

Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, April 23, 1887.

MY LORD: With reference to previous correspondence, I have the honor to transmit to you for communication to your ministers copy of a letter from the foreign office, inclosing copies of two dispatches from Her Majesty's minister at Washington on the subject of the Alaska fisheries question.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS OF LANSDOWNE,
G. C. M. G., etc.

[Inclosure 1.]

From foreign office to colonial office.

FOREIGN OFFICE, April 13, 1887.

SIR: With reference to your letter of the 2d instant, I am directed by the secretary of state for foreign affairs to transmit to you, to be laid before Secretary Sir Henry Holland, copies of two dispatches, as marked in the margin, on the subject of the Alaska fisheries question.

I am, etc.,

J. PAUNCEFOTE.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 2.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, April 2, 1887.

MY LORD: I have the honor to inform your lordship that the commander of the United States revenue-cutter *Gallatin* has been cited to appear before the admiralty court in the Boston district to answer to the allegation that in June last, while in command of the United States steamer *Corwin*, he took by force from the American schooner *Sierra* her arms and ammunition, at a point in the open sea 30 miles north of Oonalaska, while she was navigating the waters of the North Pacific Ocean on a hunting and fishing expedition, thus breaking up her voyage to the damage of the plaintiffs of \$22,500.

I have instructed Her Majesty's consul at Boston to watch this case and report the decision of the court.

I have, etc.,

L. WEST.

The MARQUIS OF SALISBURY, K. G., etc.

[Inclosure 3.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, March 29, 1887.

MY LORD: I have the honor to report to your lordship that the United States steam-ship *Thetis* has sailed from New York and will proceed round Cape Horn and up the west coast to Alaska. It is reported that the Secretary of the Treasury has received a letter from the Alaska Commercial Company complaining that private parties are taking seals in the waters about Alaska, and asking for more revenue-cutters to be sent for their protection. The company further ask that the United States Government should prohibit all killing of seals within the eastern half of Behring Sea, or from a point beginning at Behring Straits and passing from the northwest end of St. Lawrence Island in a southwesterly direction to the island of Alton, at the extreme westerly point of the Aleutian Archipelago.

I have, etc.,

L. S. S. WEST.

The MARQUIS OF SALISBURY, K. G., etc.

No. 133.

Sir H. T. Holland to Lord Lansdowne.

No. 115.]

DOWNING STREET, May 12, 1887.

MY LORD: I have the honor to transmit to you for communication to your ministers, with reference to previous correspondence, a copy of a letter from the foreign office, inclosing a copy of a dispatch from Her Majesty's minister at Washington respecting the seizure of British vessels engaged in seal fishing in Behring Sea last autumn.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS OF LANSDOWNE,
G. C. M. G.

[Inclosure 1.]

The foreign office to the colonial office.

FOREIGN OFFICE, May 5, 1887.

SIR: With reference to the letter from this office of the 15th ultimo, I am directed by the Marquis of Salisbury to transmit to you, to be laid before Secretary Sir Henry Holland, a copy of a dispatch, No. 97, dated 13th April, 1887, with its inclosures, from Her Majesty's minister at Washington, relative to the question of the seizure last autumn in Behring Sea of three British schooners engaged in seal fishing.

Copies of the laws of the United States relating to Alaska, to which reference is made in Mr. Bayard's note of the 12th ultimo to Sir L. West, are also inclosed.

I am, etc.,

P. W. CURRIE.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 2.]

Sir L. S. West to the Marquis of Salisbury.

WASHINGTON, April 13, 1887.

MY LORD: With reference to your lordship's telegram No. 7 of 2nd instant, I have the honor to inclose to your lordship herewith copy of a note which I addressed to the Secretary of State, as well as copy of reply thereto, stating that the records of the

judicial proceedings in cases of the British vessels seized in Behring Sea were received at the State Department on Saturday last, and are now under examination; and that the remoteness of the scene of the fur-seal fisheries has delayed the Treasury officials in framing appropriate regulations, and issuing orders to the United States police vessels, which information I had the honor to telegraph to your lordship this day.

I have, etc.,

L. S. WEST.

The MARQUIS OF SALISBURY, K. G., etc.

[Inclosure 3.]

Sir L. S. West to Mr. Bayard, April 4, 1887.

(Omitted here, being printed *supra*, No. 11.)

[Inclosure 4.]

Mr. Secretary Bayard to Sir L. West, April 12, 1887.

(Omitted here, being printed *supra*, No. 12.)

No. 134.

The governor-general to Sir H. Holland.

TORONTO, May 21, 1887.

SIR: With reference to previous correspondence on the subject of the seizure of Canadian sealing schooners in Behring Sea, I have the honor to forward herewith a copy of an approved minute of the privy council, concurring in a report of my minister of marine and fisheries, and recommending that the attention of Her Majesty's Government be called to the grave injustice done by the United States authorities to British subjects peaceably pursuing their lawful occupations on the high seas, to the delay which has taken place in inquiring into and redressing wrongs committed, to the severe, inhospitable, and unjustifiable treatment of the officers and crews of the vessels seized, and to the serious loss inflicted upon owners of the same, in order that full and speedy reparation may be made by the United States Government.

I have, etc.,

LANSDOWNE.

The Right Hon. Sir HENRY HOLLAND, &c.

[Inclosure 1.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 16th May, 1887.

On a report, dated 9th May, 1887, from the minister of marine and fisheries, submitting the following *résumé* of facts with reference to the Canadian sealing schooners *Carolina*, *Onward*, and *Thornton*, seized by the United States revenue-cutter *Corwin* in Behrings Sea in the year 1886.

The above-named vessels fitted out at Victoria, British Columbia, for seal hunting in the waters of the Pacific Ocean adjacent to Queen Victoria Islands, Queen Charlotte Islands, and Alaska.

At the time of seizure (1st and 2nd August, 1886) they were at a distance of more than 60 miles from the nearest land. They were taken possession of by the United States cutter and towed to the port of Oonalaska, where they were detained.

The crews of the *Carolina* and *Thornton*, with the exception of the captain and one man detained at Oonalaska, were sent by steamer to San Francisco and there turned adrift, while the crew of the *Onward* was kept at Oonalaska.

At the time of the seizure the *Carolina* had on board 686 seal skins, the *Onward* 900, and the *Thornton* 404. These, as well as the schooners, are, so far as the minister is aware, still at Oonalaska in possession of the United States authorities.

The master and mate of the *Thornton* were brought for trial before Judge Dawson, in the United States district court, at Sitka, on the 30th August, 1886. The evidence given by the officers of the United States revenue-cutter went to show that this vessel was seized for the offense of taking seals in that portion of Behring's Sea ceded to the United States by Russia in 1867, being then at a distance of from 60 to 70 miles from St. George Island.

The judge charged the jury to the effect that if they believed the defendants to have been sealing in the Behring Sea east of the 193rd degree of longitude west, they should bring in a verdict of guilty and assess separate fines or imprisonment. The jury brought in a verdict of guilty.

The master of the *Thornton* was sentenced to 30 days' imprisonment and to pay a fine of \$500, and the mate to 30 days' imprisonment and a fine of \$300. The masters and mates of the *Onward* and *Carolina* were mulcted in similar penalties.

On the 23rd and 24th September, 1886, orders in council were approved by his excellency the governor-general, setting forth the above facts and representing the injustice to which Canadian citizens engaged in a peaceable and lawful occupation on the high seas had been subjected, in spite of admitted principles of international law, and in direct opposition to the United States contention of what constitutes common waters on the Atlantic coasts, and copies thereof were forwarded to Her Majesty's Government, with a request that immediate reparation be demanded from the United States Government.

On the 12th November, 1886, Mr. Bayard informed Sir L. West that he was awaiting full and authentic reports of the trial and judgment in the cases of these seizures before further discussing the matter.

On the 8th January, 1887, the Earl of Iddesleigh addressed Sir L. West, deprecating the delay which had taken place in securing these particulars, calling upon him to urge, with all the force which the gravity of the cases demanded, the immediate attention of the United States Government to the action of the American authorities in this treatment of these vessels, mates, and crews, and directing him to seek assurance that, pending a settlement of the question, no seizures of British vessels would be made beyond the territorial waters of Alaska.

On the 9th January, 1887, Sir L. West wrote to Mr. Bayard, reviewing the whole case, and urging immediate action. On the 12th of the same month Mr. Bayard replied, explaining the reasons of the delay, and stating that every possible dispatch had been made in order to procure the necessary papers.

On the 3rd February Mr. Bayard informed Sir L. West that the documents relative to those seizures left Sitka on the 26th January, and might be expected to reach him within a fortnight. In the mean time he informed the British minister that orders had been issued for the discontinuance of all pending proceedings, the discharge of the vessels and the release of all persons under arrest in connection with these seizures, and that the conclusion of any questions involved must be reserved until the papers relating thereto had arrived.

On the 4th February Sir L. West communicated the above information to his excellency the governor-general.

The minister further states that from information received from the owners of the seized vessels and from the collector of customs at Victoria, B. C., he learns that James Ogilvie, an old man and master of the *Carolina*, was arrested along with the masters and mates of the *Onward* and *Thornton*, and brought into court for trial, but that before sentence was pronounced he was suffered to wander away into the woods, where he died from want and exposure; that the other masters and mates, after remaining several months in prison, were released by order of the governor of Alaska and turned adrift, literally destitute, to find their way as best they could to their homes, 1,500 miles distant, and which could be reached only by a long and costly sea voyage; that the owners of the condemned vessels have received no intimation from the United States authorities of the release of their vessels or the restoration of the valuable cargoes of seal skins and equipments on board, and they have no information as to the condition in which their property is at the present time.

The owners are thus left in complete uncertainty as to when or where their prop-

erty is to be restored, and anticipate serious damage, if not total loss, to their vessels from the tremendous gales which during the past winter have swept the north Pacific coasts. They also state that, knowing well, as they do, the character of the Indians in that vicinity, and apprehending that no very vigilant watch has been kept over their property, they fear that every thing movable will have been carried away. If they are compelled to receive the vessels at Oonalaska, where they have been detained, it will necessitate the chartering of a steamer, with men and supplies, at great expense, and a round voyage of some three thousand miles in order to bring them to Victoria.

The consequent damage and loss to vessels and cargoes through detention, and the heavy cost which will be entailed in bringing them to the home port, the owners consider good ground for claiming consideration from the United States authorities when the question of reparation is being settled.

The committee, concurring in the foregoing report of the minister of marine and fisheries, advise that your excellency be moved to call the attention of Her Majesty's Government again to the grave injustice done by the United States authorities to British subjects peacefully pursuing their lawful occupation on the high seas, and to the great delay which has taken place in inquiring into and redressing the wrongs committed, to the severe, inhospitable, and unjustifiable treatment of the officers and crews of the vessels seized, and to the serious loss inflicted upon owners of the same, in order that full and speedy reparation may be made by the United States Government.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure 2.]

Mr. Hamley to Mr. Tilton.

CUSTOM-HOUSE, Victoria, April 23, 1887.

SIR: In reply to your letter of the 15th instant I beg to state that none of the masters or mates of the vessels seized in Behring Sea, in August last, remain now in imprisonment. When the vessels were condemned the judge, Mr. Dawson, sentenced masters and mates to fines, which were never paid, and to different terms of imprisonment. Ogilvie, master of the *Carolina*, an old man, was arrested and brought into court, but before the sentence was pronounced he wandered away into the woods and died there. The others, after serving a time in prison, were released by an order of the governor, and turned loose, literally destitute, to find their way home in any way they could. The vessels themselves, *Carolina*, *Onward*, and *Thornton*, are now, as far as we know, in Oonalaska, but unless they have been properly taken care of, which in such a place seems scarcely probable, they must, during the winter months, have suffered greatly, even if they are still in existence. The skins taken from them are, we believe, stored in the Alaska Fur Company's warehouses at Oonalaska; the guns and ammunition were taken to Sitka, and are in the care of the United States marshal.

The chronometers and charts of two of the vessels were left in Oonalaska with the vessels. The chronometer of the other, with one or two boats, was taken, we were told, as evidence to Sitka.

No notice whatever respecting the release of the vessels or the delivery of their equipments or of the skins has been received by the owners. No word of any description has been conveyed to them by the United States authorities.

I have the honor to be, sir, your obedient servant,

W. HAMLEY.

JOHN TILTON, Esq.,
Deputy Minister of Fisheries, Ottawa.

[Inclosure 3.]

Messrs. Carne & Munsie to Mr. Tilton.

VICTORIA, BRITISH COLUMBIA, April 14, 1887.

DEAR SIR: Your advice of 2nd instant is to hand. In reply would say we have not been advised whether the vessels are to be returned to us at Victoria or are we to incur the expense and risk of taking them from Oonalaska, and accept the skins in

BEHRINGS SEA

ASIA

Behrings Strait

ALASKA

St Lawrence Id

Norton Sound

R. Kwichpak

Nounivak Id

Bristol Bay

St Paul
Pribiloff Is
St George

ALASKA PENINSULA

Alaska Str

KADIAK Id

Fox Islands

Aleutian Islands

Andreanoff Ids.

the condition they may be found as an offset in full against the amounts set opposite them in our claims. The expense and risk of getting them to Victoria will be great, as there is no direct way of transferring men and supplies a distance of 1,500 miles.

It will necessitate the chartering of a steamer, and, owing to the tremendous gales in the North Pacific the past winter, the vessels may be very seriously damaged if not totally lost. Knowing the Indians as we do, we anticipate that everything movable will be carried away.

The vessels and skins are left in the care of not too friendly a concern, namely, the Alaska Commercial Company's agent alias the United States marshal.

Remaining, dear sir, your obedient servants,

CARNE & MUNSIE.

JOHN TILTON, Esq.,
Deputy Minister of Fisheries, Ottawa.

No. 135.

Sir R. G. W. Herbert to the officer administering the government of Canada.

DOWNING STREET, May 27, 1887.

MY LORD: I am directed by the secretary of state to transmit to you for communication to your ministers with reference to previous correspondence the documents specified in the annexed schedule.

I have, etc.,

R. G. W. HERBERT.

THE OFFICER ADMINISTERING THE GOVERNMENT OF CANADA.

[Inclosure 1.]

The foreign office to the colonial office.

FOREIGN OFFICE, May 19, 1887.

SIR: I am directed by the secretary of state for foreign affairs to transmit to you, to be laid before Her Majesty's secretary of state for the colonies copy of a dispatch, as marked in the margin, from Her Majesty's minister at Washington, relative to the seizures in Behring Sea.

I am, etc.,

J. PAUNCEFOTE.

THE UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure 2.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, May 6, 1887.

MY LORD: With reference to my dispatch No. 83, of April 2 last, I have the honor to inform your lordship that the case of the owners of the American ships seized for sealing in Behring Sea, against the captain of the United States cruiser *Corwin*, has been postponed until the Government is prepared for the defense.

I have, etc.,

L. S. WEST.

THE MARQUIS OF SALISBURY, etc.

No. 136.

Sir L. West to Mr. Bayard, July 8, 1887.(Omitted here, being printed *supra*, No. 13.)

No. 137.

Mr. Bayard to Sir L. West, July 11, 1887.(Omitted here, being printed *supra*, No. 4.)

No. 138.

Sir H. Holland to Lord Lansdowne.

No. 206.]

DOWNING STREET, July 14, 1887.

MY LORD: I referred to the secretary of state for foreign affairs a copy of your lordship's dispatch No. 169, of the 21st of May last, inclosing a copy of an approved report of your privy council, respecting the action of the United States authorities towards British subjects, in connection with the seizure of Canadian sealing schooners in Behring Sea.

I now inclose, for communication to your Government, a copy of a letter received from the foreign office in reply, from which it will be seen that the Marquis of Salisbury is of opinion that it will be desirable, before any further representations are made to the United States Government, with a view to obtaining reparation, that Her Majesty's Government should be in possession of the record of the judicial proceedings in the district court in Alaska, and that instructions have been sent by telegraph to Sir L. West.

You will be so good as to transmit to me a copy of any printed papers which have been laid before the parliament of the Dominion on this subject.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS OF LANSDOWNE,

G. C. M. G., etc.

[Inclosure No. 1.]

The foreign office to the colonial office.

FOREIGN OFFICE, July 8, 1887.

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 27th ultimo, relating to the case of the seizure of certain British vessels when engaged in seal fishing last autumn in Behring Sea.

In reply, I am to request that you will state to Sir H. Holland that in Lord Salisbury's opinion it is very desirable that, before any further representations are made to the United States Government with a view to obtaining reparation, Her Majesty's Government should be in possession of the records of the judicial proceedings in the

district court in Alaska, and instructions have been sent by telegraph to Sir L. West, directing him to request that he may be furnished with these documents by the United States Government for the use of Her Majesty's Government.

I am further to request that this department may be supplied with a copy of the papers which have been laid before the Canadian Parliament in regard to this question.

I am, etc.,

The UNDER SECRETARY OF STATE,
Colonial Office

J. V. LISTER.

No. 139.

Sir H. T. Holland to Lord Lansdowne.

No. 279.] DOWNING STREET, August 15, 1887.

MY LORD: I have the honor to transmit to you, for communication to your ministers with reference to previous correspondence, copy of a letter from the foreign office, inclosing copies of two dispatches which have been addressed to Her Majesty's minister at Washington, respecting the seizure of British sealing schooners in Behring Sea by an American revenue vessel.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the most Hon. the MARQUIS OF LANSDOWNE,
G. C. M. G., etc.

[Inclosure No. 1.]

Foreign office to colonial office.

FOREIGN OFFICE, August 12, 1887.

SIR: With reference to your letter of 28th July last, I am directed by the Marquis of Salisbury to transmit to you for the information of Sir H. Holland, copies of two dispatches, Nos. 193 and 194, 10th instant, which have been addressed to Her Majesty's minister at Washington in regard to the seizure of British sealing schooners in Behring Sea by the United States authorities.

I am, etc.,

J. V. LISTER.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure No. 2.]

The Marquis of Salisbury to Sir L. West.

FOREIGN OFFICE, August 10, 1887.

SIR: I have to inform you that a telegram has been received from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated Victoria, British Columbia, on the 7th instant, from which it appears that an American revenue vessel had seized three more British Columbian sealing schooners when a long distance from land, and that they had been taken to Sitka. He further stated that several other vessels in sight from Sitka were being towed in.

It will be within your recollection that in the correspondence which has recently taken place in regard to the previous seizures of three British vessels by the United States revenue cruiser *Corwin*, Mr. Bayard stated in a note dated the 3d February (a copy of which accompanied your dispatch No. 34 of the following day), that "without

conclusion at this time of day of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

I request that you will at once communicate with the United States Government as to the nature of the information which has reached them in regard to these further seizures of British vessels by the United States authorities.

You will at the same time say that Her Majesty's Government had assumed, in view of the assurance conveyed to you in Mr. Bayard's note of February 3 last, that pending a conclusion of the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government.

I am, etc.,

SALISBURY.

[Inclosure No. 3.]

The Marquis of Salisbury to Sir L. S. West.

FOREIGN OFFICE, August 10, 1887.

SIR: I have to acknowledge the receipt of your dispatch, No. 196, of the 12th ultimo, inclosing printed copies of the records in the United States district court for the district of Alaska, in the cases of the British Columbian sealing schooners *Onward*, *Carolina*, and *Thornton*.

I should be glad if you would inform me whether the owners or masters of any of these vessels have entered an appeal against the judgments delivered by the court, and whether, if they have not already done so, such a course is still open to them.

It is also desirable that Her Majesty's Government should be furnished with a full report of the proceedings at the trials of the masters which resulted in their conviction and sentence to imprisonment and fine.

I have further to request that you will endeavor to ascertain and report to me when it is probable that the appeals referred to in your dispatches Nos. 88 and 113, of the 2d April, 1887, and of the 6th May, 1887, respectively, of the owners of the American ships which were seized on similar grounds, will come on for hearing, and whether any arrangement has been or can now, in your opinion, advantageously be made between the owners of the British and American vessels on the one side and the Government of the United States on the other, that one of these cases should be regarded as a test case, by which, in so far as the American legal tribunals are concerned, the remaining cases might be held to be concluded.

It must, however, be clearly understood that any such arrangement, if made, would only affect the legal remedies which were open to the masters and owners of these vessels in the American courts, and would in no degree limit the right of Her Majesty's Government, after all such legal remedies were considered to be exhausted, to intervene through diplomatic channels and on international grounds on behalf of such masters or owners.

It is presumed that the records of the proceedings in the cases of the seizures of the British schooners which accompanied your dispatch No. 196, were communicated officially to Her Majesty's legation, and, if so, I request that you will furnish me with a copy of the note by which they were accompanied.

I am, etc.,

SALISBURY.

[Inclosure No. 4.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, July 12, 1887. (Received July 22.)

MY LORD: With reference to your lordship's telegram of the 8th instant, I have the honor to transmit herewith printed copies of the judicial proceedings* in the United States district court for the district of Alaska in the several cases of the schooners *Onward*, *Carolina*, and *Thornton*, proceeded against on a charge of killing fur seal in Alaska.

I have, etc.,

L. S. SACKVILLE WEST.

* Printed *supra*, inclosure in No. 14.

No. 140.

No. 325.] *Lord Lansdowne to Sir Henry Holland.*

AUGUST 19, 1887.

SIR: I have the honor to inclose herewith for your information copies of a report received by my minister of marine and fisheries from the collector of customs at Victoria, British Columbia, dated 9th instant, in regard to the seizure of the sealers *Grace*, *Dolphin*, and *W. P. Sayward* by United States revenue-cutter *Richard Rush*.

I beg to call your special attention to the deposition, inclosed in Mr. Hamley's report, of Captain Laing, of the *W. P. Sayward*. You will observe that Captain Laing states particularly that the seals of which the skins were found on board his vessel were not taken in the Behring Sea.

It is scarcely necessary to dwell upon the grievous hardships occasioned by these seizures, for which, as far as I am aware, no justification has yet been forthcoming, not only to the owners and to the officers and crews but to the Indian hunters on board, who were, it appears, "left to find their way home as they could" from Sitka to their own villages, distant about 700 miles from that place.

LANSDOWNE.

[Inclosure No. 1.]

Mr. Hamley to Mr. Foster.

CUSTOM-HOUSE,

Victoria, British Columbia, August 9, 1887.

SIR: On the 5th instant I sent you word by telegram that three more Canadian vessels had been seized in Behring Sea and sent to Sitka: *Grace*, *Dolphin*, and *W. P. Sayward*. This news reached us by the steamer *Olympian*, and the day following the mate of the *W. P. Sayward*, one of the seized vessels, came down on the steamer *Idaho*. I had him here at the custom-house and his statements in some particulars were so important that I thought it desirable that it should be taken down before a notary public and the deposition forwarded to you. I inclose it herewith. The seizure was made on the 9th July by the master of the revenue-cutter *Rush* in Behring Sea, from 30 to 40 miles from any land. The skins, 479 in number, all taken, he says, in the Pacific, were lodged in the Alaska Company's warehouse at Oonalaska and the vessel herself sent to Sitka. There is no doubt now, from the declaration of the master of the United States revenue-cutter made openly on the deck of the *W. P. Sayward*, that, in seizing this and the other Canadian vessels, he was acting under direct instructions from the United States Government.

I forward also the information laid in the district court at Sitka by the United States attorney Ball against the master and mate of the *W. P. Sayward*. The indictments against the masters and mates of the other vessels are in the same forms and terms, the complaint being that they had killed fur seals in Behring Sea contrary to the statutes of the United States, and against the peace and dignity of the United States of America.

The case is to be heard in the district court at Sitka on the 22d of this month. The mate of the *W. P. Sayward* was allowed out on bail in \$500 and returned last night for the trial.

I have the honor to be, sir, your obedient servant,

W. HAMLEY.

Hon. GEO. E. FOSTER,
Minister of Marine and Fisheries

[Inclosure No. 2.]

Affidavit of Andrew Laing, mate of schooner W. P. Sayward.

I, Andrew Laing, of Victoria, mate of the British schooner *W. P. Sayward*, do solemnly and sincerely declare that I left Victoria, British Columbia, in the schooner *W. P. Sayward*, on the 16th day of May, 1887, bound on a sealing voyage, with a crew of seven men and sixteen Indian hunters with eight canoes. We commenced sealing off Cape Scott, on the north of Vancouver Island and killed four hundred and seventy-nine fur seals in the Pacific Ocean and entered the Behring Sea on the 2d of July, 1887, passing between Unimak Island and the Island of the Four Mountains. The weather was very thick and foggy, and we did no sealing in Behring Sea in consequence. On the 9th July we were captured by the U. S. steamer *Richard Rush*, being then from 30 to 40 miles off the nearest land. We were taken to Oonalaska, where we arrived on the 10th July, and they laid us alongside the steamer *St. Paul*, belonging to the Alaska Commercial Company. They removed the seal skins and took them ashore to the wharf and put them in the company's warehouse, and they resalted the skins with salt taken from our vessel. They put an officer from the *Rush* on board and towed us out to sea and told us to go to Sitka. We arrived there on the 22d July, and on the next day an investigation was held before Judge Dawson, who bound us over to appear on the 22d August for trial. The vessel was left in charge of the United States officers, and we were only allowed to remove our clothing. The Indians were left to find their way home as they could; they were about 700 miles from their villages.

I further say that when we were taken I spoke to the captain of the *Rush*, and told him we had not taken a seal in Behring Sea; he replied that "I am sorry for you; I have to obey orders and take everything I come across in Behring Sea."

And I make this solemn declaration by virtue of the act passed in the thirty-seventh year of Her Majesty's reign, entitled, "An act for the suppression of voluntary and extra judicial oaths."

A. LAING.

Taken and declared before me at Victoria, British Columbia, this 8th day of August, 1887.

M. W. TYRWHITT DRAKE,
Notary Public.

[Inclosure No. 3.]

Information served on Andrew Laing.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

[The United States vs. George R. Ferry and A. Laing. Information.]

DISTRICT OF ALASKA, ss:

George R. Ferry and A. Laing are accused by M. D. Ball, United States district attorney for Alaska, by this information, of the crime of killing fur seals within the waters of Alaska Territory—committed as follows:

The said George R. Ferry and A. Laing, on the 8th day of July, A. D. 1887, in the district of Alaska, and within the jurisdiction of this court, to wit, in the Behring Sea, within the waters of Alaska Territory, did kill ten fur seals, contrary to the statutes of the United States in such cases made and provided, and against the peace and dignity of the United States of America.

Dated at Sitka, the 23d day of July, 1887.

DISTRICT OF ALASKA, ss:

I, M. D. Ball, United States district attorney for Alaska, being duly sworn, say the within information is true, as I verily believe.

M. D. BALL.

Subscribed and sworn to before me this 23d day of July, A. D. 1887.

[L. S.]

H. E. HAYDON, Clerk,
By A. A. MEYER, Deputy Clerk.

I certify that the within is a true copy of the information filed in the cause.

H. E. HAYDON, Clerk,
By A. A. MEYER, Deputy Clerk.

Personally appeared before me, Montague W. Tyrwhitt Drake, notary public, duly authorized, admitted, and sworn, residing and practicing in Victoria, British Columbia, Andrew Laing, mate of the British schooner *W. P. Sayward*, who stated that the above-written information was served upon him by Mr. M. D. Ball, on the 23d July, 1887.

[L. S.]

M. W. TYRWHITT DRAKE,
Notary Public.

No. 141.

Sir L. S. Sackville West to Lord Lansdowne.

No. 66.]

WASHINGTON, August 23, 1887.

—MY LORD: With reference to your excellency's telegram of the 8th instant, I have the honor to inclose herewith, for the information of your excellency's Government, copies of the reports of Captain Shepard of the United States cruiser *Rush*, respecting the seizure of the British sealing vessels *Anna Beck*, *Sayward*, *Dolphin*, and *Grace*.

I have, etc.,

L. S. SACKVILLE WEST.

His Excellency the MARQUIS OF LANSDOWNE,
G. C. M. G., etc.

[Inclosure No. 1.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
August 19, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of the 13th instant, in which you refer to information received through the British minister as to the recent seizures by United States cruisers of three British Columbian sealing schooners in Behring Sea, and request such information as this Department possesses or can obtain from its agents, relative to said seizures, and in reply thereto I inclose herewith copies of the reports of the captain of the revenue cutter *Rush*, dated the 4th, 11th, and 18th ultimo, reporting the seizures of the British steam-schooner *Anna Beck* on the 2d, the British steam-schooner *W. P. Sayward* on the 9th, the British steam schooner *Dolphin* on the 12th, and the British steam-schooner *Grace* on the 17th ultimo.

I am, etc.,

C. S. FAIRCHILD,
Secretary.

The SECRETARY of STATE, etc.

[Inclosure No. 2.]

Captain Shepard, U. S. Revenue Marine, to Mr. Fairchild.

U. S. REVENUE MARINE STEAMER RUSH,
Ounalaska, Alaska, July 4, 1887.

SIR: I have the honor to report to the Department the seizure on 30th June of the schooner *Challenge*, of Seattle, Wash., H. B. Jones, master, and Albert Douglas, of Seattle, Wash., president of the Douglas Fur Company, "managing owner," for violations of section 1961, Revised Statutes, they having skins of female fur-seals and skins of unborn seal on board, which latter the captain and mate admitted were taken from the female seal killed by themselves or the crew of the vessel.

The *Challenge* when found was anchored at Akoutan Island, Alaska. I took her in tow of the *Rush* and proceeded to Ounalaska and delivered her skins, 151 in number, to the United States deputy marshal at this place, and have taken her arms and ammunition on board the *Rush* for safe keeping.

The crew, consisting of fifteen men all told, were shipped at Port Townsend, Wash., by H. Bash, United States shipping commissioner, and were found present, excepting W. Couratz, of Germany, seaman, whom Captain Jones reports was taken sick and sent ashore at Goose Island, British Columbia, and "Hines," an Indian of British Columbia, was shipped in his stead at that place.

On 2d July, in latitude $54^{\circ} 58' N.$, and longitude $157^{\circ} 26' W.$, Cape Cheerful, Ounalaska Island, bearing SE. $\frac{1}{2}$ E. 66 miles, I boarded and examined the British steamer schooner *Anna Beck*, of Victoria, British Columbia, Louis-Olsen, master; Joe Bosquit, of Victoria, British Columbia, managing owner, on a sealing voyage, and having about 334 seal-skins on board, 19 of which the captain admitted were taken on Behring Sea. His boats had recently been taken out of the water and considerable fresh seal blood and gurry were found on deck, indicating that seal had been skinned and dressed on board that day. I seized the vessel for violation of section 1956, Revised Statutes, took her in tow, and proceeded to Ounalaska.

This vessel was seen on June 30 in nearly the same position as when we found her, by Captain Page, of the steamer *Dora*, with several boats out hunting seal.

I found on board a crew of nineteen men, all told (seven white and twelve Indians), and the captain reported that on June 30 two boats, containing two Indians each, were lost in the fog and could not be found, in addition to the above number.

I have delivered the *Anna Beck*, with outfit and 334 seal skins, to the United States deputy marshal at Ounalaska. No arms or ammunition were found on board.

As the officers of these vessels have to be taken before the United States district court at Sitka for trial, to which place there is no established mode of conveyance from here, I have placed the officers and crews of both vessels on board the schooner *Challenge*, and dispatched Benjamin Lorenzen, one of the crew of this vessel, duly qualified as a deputy United States marshal, in charge, to Sitka, with instructions, on his arrival at that place, to deliver the vessel, captains, and mates to the United States marshal and to set the crews at liberty, Lorenzen to remain at Sitka until the arrival of the *Rush* at the end of the season.

I am, etc.,

L. G. SHEPARD,
Captain U. S. Revenue Marine.

Hon. C. S. FAIRCHILD,
Secretary of the Treasury.

[Inclosure No. 3.]

Captain Shepard, U. S. Revenue Marine, to Mr. Fairchild.

U. S. REVENUE MARINE STEAMER RUSH,
Ounalaska, Alaska, July 11, 1887.

SIR: I have the honor to inform the Department that on 9th July, in the Behring Sea, latitude $54^{\circ} 43' N.$, longitude $167^{\circ} 51' W.$, Cape Cheerful, Ounalaska Island, bearing SE. true 59 miles distant, I boarded and examined the British schooner *W. P. Sayward*, 59.70 tons register, of Victoria, British Columbia, George B. Ferry, master, and W. D. Warren, of Victoria, British Columbia, managing owner, and found her to be on a sealing voyage; had been four days in the Behring Sea.

The captain reported four hundred and eighty-five seal skins on board, sixty-four of which were taken in the Behring Sea; found the vessel under short sail and one canoe and two Indians out hunting seal.

Her crew consisted of six white men, all told, and seventeen Indians from British Columbia, and two Indians belonging to the crew of the British schooner *Anna Beck*, who had lost that vessel in a fog. I took charge of the vessel's papers and seized her for violation of section 1956, Revised Statutes, took her in tow and proceeded to Ounalaska, arriving at midnight.

I have delivered the four hundred and eighty-five seal skins found on board to the United States deputy marshal at this place, and will send the vessel and her crew to Sitka, Alaska, in charge of one of the crew of this vessel, duly qualified as a United States deputy marshal, with instructions to deliver the vessel with her outfit, the captain and mate, to the United States marshal at Sitka, on arrival at that port, and to set the crew at liberty.

I am, etc.,

L. G. SHEPARD,
Captain U. S. Revenue Marine.

[Inclosure No. 4.]

Captain Shepard, U. S. Revenue Marine, to Mr. Fairchild.

U. S. REVENUE MARINE STEAMER RUSH,
Ounalaska, Alaska, July 18, 1887.

SIR: I have the honor to inform the Department that on July 12, in the Behring Sea, latitude $51^{\circ} 38' N.$, longitude $157^{\circ} 03' W.$, Cape Cheerful, Ounalaska Island, bearing SE. $\frac{1}{2}$ S. 40 miles distant, I boarded and examined the British steam-schooner *Dolphin*, 60.10 tons register, of Victoria, British Columbia, J. D. Warren, master and managing owner, and found her to be on a sealing voyage. The vessel had been three days in the Behring Sea and had 618 seal skins on board. Ten canoes and one boat were out hunting seal at the time.

From the canoes twelve or more dead seal were taken on board the schooner while we were near her, and three skins from seal recently killed were found in the boat. Seized the vessel for violation of section 1956, Revised Statutes, and transferred her arms and ammunition on board the *Rush*, namely, 4 breech-loading rifles, 26 breech-loading shot guns, 10 muzzle-loading shot guns, 1 bomb gun, 4 revolvers, 3,404 rounds ammunition for breech-loading rifles, 250 rounds ammunition for shot guns, 4 kegs powder, 50 pounds shot, and other small ammunition. Seized the 4 breech-loading rifles and ammunition for same for violation of section 1956 Revised Statutes, and section 4, Executive Order, paragraph 53, dated May 4, 1887. I placed Lieutenant Dunwoody in charge, with instructions to take her into Ounalaska, where she arrived the following day. The crew consisted of 7 white men and 26 Indians from British Columbia.

On July 17, in the Behring Sea, latitude $55^{\circ} 03' N.$, longitude $168^{\circ} 40' W.$, Cape Cheerful, Ounalaska Island bearing SE. $\frac{1}{2}$ E., 96 miles distant, I boarded and examined the British steam-schooner *Grace*, 76.87 tons register, of Victoria, British Columbia, William Petit, master, and J. D. Warren, of Victoria, British Columbia, managing owner, and found her to be on a sealing voyage; had been ten days in the Behring Sea, and had 769 seal skins on board. When boarded she had 12 canoes and one boat out hunting seal. Saw one seal shot and taken into the boat while we were near her. Counted 12 seal taken on board the schooner from one canoe, and all the canoes contained more or less seal recently killed. The captain reported taking 90 seal during the day and 150 the day previous. Seized the vessel for violation of section 1956, Revised Statutes, and 2 breech-loading rifles and ammunition for same for violation of section 1955, Revised Statutes, and section 4, executive order, paragraph 53, dated 4th May, 1887.

The crew consisted of 6 white men, 24 Indians, and one Chinaman. Placed Lieutenant Benham in charge, and after waiting seven hours for her canoes to return, some of which had been a long distance from the vessel, took her in tow and proceeded to Ounalaska, arriving at 9.30 this a. m.

I have delivered the seal skins from these vessels to the United States deputy marshal at this place, and will send the vessels, in charge of men from this vessel duly qualified as United States deputy marshals, to Sitka, to be delivered to the United States marshal for the district of Alaska.

By request of Capt. J. D. Warren, of the *Dolphin*, managing owner of the schooner *Anna Beck* (seized 2d July, as previously reported), I will send her to Sitka in like manner.

Also, on 16th July, in the Behring Sea, latitude $55^{\circ} 46' N.$, longitude $170^{\circ} 38' W.$, Delnoi Point, St. George Island, showing N. 30 E., 63 miles distant, I boarded and examined the schooner *Lily L.*, 63.42 tons register, of San Francisco, Cal., J. W. Todd, master, and C. D. Ladd, of San Francisco, managing owner, and found her to be on a sealing voyage; at the time had three boats out, one of which, on returning to the vessel, contained two seal recently killed. Captain Todd and Mr. Ladd, representing the owner, admitted they came into these waters for the purpose and had taken seal in the Behring Sea, and claimed a right to do so anywhere outside the 9-mile limit from the shore.

I seized the vessel for violation of section 1956, Revised Statutes. There being only two commissioned officers on board this vessel, I placed Boatwain Winslow on board the schooner to represent the United States, and instructed her captain to take her into Ounalaska, which he agreed to do, there being too much sea running at the time to undertake to tow her to that place. On her arrival I will make further report to the Department.

I am, etc.

L. G. SHEPARD,
Captain.

No. 142.

Lansdowne to Sir H. T. Holland.

No. 338.]

QUEBEC, August 27, 1887.

SIR: With reference to my dispatch No. 325, of the 19th instant, in regard to the seizure of the sealers *Grace*, *Dolphin*, and *W. P. Sayward*, by the United States revenue-cutter *Richard Rush*, I have the honor to forward herewith copy of an approved minute of the privy council of Canada, dated 23d instant, to which are appended copies of the following documents:

(1) A letter from W. Hamley, collector of customs at Victoria, British Columbia, to the minister of marine and fisheries.

(2) The affidavit of Andrew Laing, mate of the seized schooner *Sayward*, sworn to at Victoria on the 8th of August, 1887.

(3) The information filed in the district court of the United States for the district of Alaska against the master and mate of the *Sayward*.

It is requested that these papers, copies of which were inclosed in my dispatch above mentioned, may be transmitted to the foreign office, in order that a remonstrance may be addressed to the United States Government against the unwarrantable action of the commander of the *Rush*, and a claim made for all damages arising from the seizure of the *Sayward* and the detention of her officers and crew.

I have, etc.,

LANSDOWNE.

Sir H. HOLLAND.

[Inclosure No. 1.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 23d August, 1887.

On a report dated 17th August, 1887, from the minister of marine and fisheries, submitting with reference to the seizure by the United States steamer *Richard Rush*, on the 9th July last, in the Behring Sea, of the British schooner *W. P. Sayward*, of Victoria, the following papers:*

(1) A letter from W. Hamley, collector of customs at Victoria, B. C., to the minister of marine and fisheries.

(2) The affidavit of Andrew Laing, mate of the seized schooner, sworn to at Victoria, on the 8th August, 1887; and

(3) The information filed in the district court of United States for the district of Alaska against the master and mate of the *Sayward*.

The minister observes that, upon reference to the affidavit of the mate of the schooner *Sayward*, it appears that all the seals on board the vessel were taken in the Pacific Ocean and before the vessel entered Behring Sea, so that even the alleged claim on the part of the United States Government to jurisdiction in the Behring Sea is not available in the case now complained of; and would also call attention to the reply of the commander of the United States steamer *Richard Rush*, in which he states his orders were "to take everything he came across in the Behring Sea."

The committee recommend that your excellency be moved to forward copies of the annexed papers to the right honorable the principal secretary of state for the colonies, for transmission to the foreign office, in order that a remonstrance may be made to the United States Government for so unwarrantable an act as that committed by the commander of the *Richard Rush*, and a claim made for all damages arising out of the seizure of the schooner *W. P. Sayward* in the open sea and the detention of officers and crew, and also that copies of the papers be sent to Her Majesty's minister at Washington.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

* Printed *supra*, inclosures in No. 140.

No. 143.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, September 1, 1887.

MY LORD: I have the honor to transmit to you, for communication to your Government, with reference to previous correspondence, a copy of a dispatch from Her Majesty's minister at Washington, inclosing correspondence with the United States Secretary of State relative to the recent seizure of sealing vessels in Behring Sea, which has been received from the foreign office.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS of LANSDOWNE, etc.

[Inclosure 1.]

Sir L. S. West to the Marquis of Salisbury.

WASHINGTON, August 15, 1887.

MY LORD: In obedience to the instruction contained in your lordship's telegram No. 31 of the 10th instant I informed the Secretary of State that three British Columbian schooners had been seized in Behring Sea by United States cruisers a long distance from Sitka, and that several other vessels were in sight, being towed in. I also intimated to Mr. Bayard that in view of the assurances given in his note of the 3d of February last, Her Majesty's Government had assumed that, pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government. Copy of my note is herewith inclosed. I have likewise the honor to inclose to your lordship copy of a note which I have received in reply to the above communication, in which Mr. Bayard states that he can discover no ground whatever, from the expressions contained in his note referred to, for the assumption by Her Majesty's Government that it contained any such assurances, but that he will ascertain without delay whether the circumstances attendant upon the cases of the seizures in question are the same as those which induced the Executive to direct the release of the vessels mentioned in his note of 3d February.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 2.]

Sir L. West to Mr. Bayard, August 11, 1887.(Omitted here, being printed *supra*, No. 15.)

[Inclosure 3.]

Mr. Bayard to Sir L. S. S. West, August 13, 1887.(Omitted here, being printed *supra*, No. 16.)

S. Ex. 106—12

No. 144.

Sir H. T. Holland to Lord Lansdowne.

No. 308.]

DOWNING STREET, September 1, 1887.

MY LORD: I have the honor to transmit to your lordship, for communication to your ministers, with reference to previous correspondence, a copy of a letter from the admiralty, with one from the commander-in-chief in the Pacific, respecting the capture of the sealing schooner *Anna Beck* by an American revenue vessel in Behring Sea.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the most Hon. the MARQUIS OF LANSDOWNE,

G. C. M. G., etc.

[Inclosure No. 1.—Extract.]

Admiralty to colonial office.

ADMIRALTY, August 24, 1887.

I am commanded by my lords commissioners of the admiralty to transmit the accompanying extracts from a letter dated 5th August, No. 127, from the commander-in-chief, Pacific, reporting the state of affairs at Metlakatla, and the seizure of a sealing schooner named the *Anna Beck* by an American revenue vessel in the Behring Sea.

I am, etc.,

R. D. AWDRY.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure No. 2.—Extract.]

Admiral Seymour to the secretary to the admiralty.

TRIUMPH, AT ESQUIMALT, August 5, 1887.

I did not visit Sitka, thinking it as well whilst the Behring Sea sealing question is unsettled that I should not do so.

Since my return I hear that the *Anna Beck*, a sealing schooner, has been seized by an American revenue vessel in Behring Sea, it is reported 60 miles northeast from St. George Island, but no reliable information as to the spot has yet reached me; as soon as it does I will forward particulars.

I have, etc.,

M. C. SEYMOUR,

Rear-Admiral and Commander-in-Chief.

The SECRETARY TO THE ADMIRALTY.

No. 145.

Sir Henry Holland to Lord Lansdowne.

DOWNING STREET, September 14, 1887.

MY LORD: With reference to previous correspondence, I have the honor to acquaint you, for the information of your ministers, that the Marquis of Salisbury caused to be referred to the law officers the correspondence which has passed respecting the seizure of the three

British sealing vessels, the *Thornton*, the *Carolina*, and the *Onward*, by the United States revenue cruiser *Corwin*, in Behring Sea, and that they advised that a claim for compensation might properly be made against the United States Government.

I telegraphed to you on the 7th instant that it was proposed to prefer a claim for compensation against the United States Government, and inquiring what answer your ministers would suggest, but as at present advised it does not seem to me desirable to put forward the claims which accompanied your dispatch No. 9 of the 15th of January, as some of them are apparently much exaggerated and a new issue would be raised as to the reasonableness of the claims.

In the mean time the Marquis of Salisbury has addressed the dispatch, of which I inclose a copy, to Her Majesty's minister at Washington, desiring him to communicate it to the Secretary of State.

Your ministers will, no doubt, take this matter into consideration at the earliest moment.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the most Hon. the MARQUIS OF LANSDOWNE, etc.

[Inclosure No. 1.]

The Marquis of Salisbury to Sir L. West, September 10, 1887.

(Omitted here, being printed *supra*, No. 17.)

No. 146.

Sir H. T. Holland to Lord Lansdowne.

DOWNING STREET, September 16, 1887.

MY LORD: I have the honor to transmit to you for communication to your lordship's ministers copies of dispatches from Her Majesty's minister at Washington respecting the seizure of British Columbian vessels in Behring Sea, which have been received from the foreign office.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the most Hon. the MARQUIS OF LANSDOWNE,
G. C. M. G., etc.

[Inclosure No. 1.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, August 20, 1887.

MY LORD: It would appear from reports of Captain Shepard, of the United States revenue-cutter *Rush*, that the *Sayward* was captured 50 miles and the *Dolphin* 40 miles from Cape Cheerful, while the *Grace* was seized 95 miles from Ounalaska.

Cape Cheerful does not appear on any map or chart, but is supposed to be the northernmost point of the island of Oonalaska.

The islands of St. George and St. Paul (Pribilof Islands) are distant 180 miles from Oonalaska, so that at the time of the seizure of the *Grace* that vessel would have been 85 miles distant from them.

To reach the breeding grounds on the islands of St. George and St. Paul the seals pass regularly through the channel which separates the island of Ounalaska from the island of Akutan, and that which separates Akutan from the island of Unimak, called respectively the Akutan and Unimak Passes, and it is here that the sealers lay in wait for them on their passage.

It is maintained that the capture of seals in this manner is in violation of section 1956 of the Revised Statutes of the United States, and that ships so capturing them are within the limits of Alaska Territory, or in the waters thereof.

But apart from the question of territorial limit and right to seize vessels in the open sea, it is argued by impartial persons that unless some arrangement is made for the protection of these valuable animals on their passage to the breeding grounds, the genus, as in the case of beaver, will gradually become extinct.

It is a known fact that few, if any, seals pass outside the Island of Oonalaska to their breeding grounds, which exist only on the Pribylof Islands, and that their passage is as regular as their breeding season.

I have, etc.,

L. S. S. WEST.

[Inclosure No. 2.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, August 22, 1887.

MY LORD: Since writing my preceding dispatch I have received privately from Mr. Bayard copies of the reports of Captain Shepard, alluded to therein, respecting the seizure of the British vessels *Anna Beck*, *W. P. Sayward*, *Dolphin*, and *Grace*, copies of which I have the honor to inclose to your lordship herewith.

The State Department is not in possession of any further information.

I have, etc.,

L. S. SACKVILLE WEST.

P. S.—I have communicated copies of Captain Shepard's reports to the governor-general of Canada.

L. S. S. W.

No. 147.

Lord Lansdowne to Sir Henry Holland.

[Telegram.]

SEPTEMBER 23, 1887.

I understand that after Mr. Bayard's announcement of the 3d February, respecting Behring Sea seizures, instructions were sent in accordance with it to the Alaska authorities by telegraph; that an instrument for the release of the vessels was thereupon issued by the district judge, but that subsequently, on the assumption that the telegram was forged, he rescinded the order; that no steps have been taken by the Department since; the vessels are still detained. My Government trusts the facts will be inquired into.

No. 148.

Lord Lansdowne to Sir H. T. Holland.

No. 372.]

QUEBEC, September 26, 1887.

SIR: In continuation of my dispatch, No. 338, of the 27th of August and in reference to previous correspondence, I have the honor to inclose herewith a copy of an approved minute of the privy council of Canada,

dated 21st of September, 1887, covering copies of a report of my minister of marine and fisheries relating to the seizure and detention of the Canadian sealing schooner *Alfred Adams*, and of other Canadian sealing vessels by the United States authorities in the Behring Sea.

The letter directed to the United States district attorney at Sitka, marked D in the minister's report, which came into the possession of my Government under the circumstances described in the declaration of Captain Dyer, of the *Alfred Adams*, has been forwarded, together with copies of the papers, to Her Majesty's minister at Washington.

The circumstances under which the *Adams* was seized do not differ materially from those attending previous seizures in the same waters. I have already laid before you the reasons which have led my Government to protest against the assumption that the statutes under which other seizures, and I presume this also, have been made—statutes governing the conduct of persons fishing within "the Territory of Alaska" or "in the waters thereof" (*vide* U.S. Rev. Stats., 1955, 1956)—are applicable to the whole of the waters of the Behring Sea; and in cases where, as in those under discussion, the vessels seized were found fishing at a great distance from the nearest land.

I trust that the earnest attention of Her Majesty's Government will be given to the statements contained in the minister's report. No satisfactory explanation has yet been given of the action of the United States Government subsequent to Mr. Bayard's announcement of February 3, of the present year, when it was stated by him, to Her Majesty's minister at Washington, that "orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

You will observe from Mr. Foster's recapitulation of the evidence which he has been able to collect and the documents attached to his report that an impression prevails upon the spot to the effect that orders such as those described by Sir L. West were actually issued from Washington. There appears at all events to be some reason for believing that a telegram authorizing the release of the vessels then under detention was in fact received by the district judge, and that instructions were thereupon issued by him for the purpose of carrying out these orders. The circumstances under which those instructions are said to have been subsequently rescinded by the district judge have not unnaturally given rise to the gravest suspicion.

The minister has called attention with great force in his report to the injury sustained by persons engaged in the sealing industry from the suspense and uncertainty in which they have been kept during the past year, owing to the refusal of the United States Government to give any explicit assurances as to the treatment which they might expect at its hands.

I have, etc.,

LANSDOWNE.

The Right Hon. Sir H. HOLLAND, etc.

[Inclosure No. 1.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 21st September, 1887.

The committee of the privy council have had under consideration the annexed report of the minister of marine and fisheries with reference to the seizure and

detention of Canadian sealing vessels by the United States authorities in Behring Sea.

The committee concur in the said report, and they advise that your excellency be moved to transmit a copy of this minute and the annexed papers to the right honorable the secretary of state for the colonies.

All of which is submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure No. 2.]

Report of Hon. George E. Foster.

OTTAWA, September 15, 1887.

With reference to previous correspondence concerning the seizure and detention of Canadian sealing vessels by the United States authorities in Behring Sea, the minister of marine and fisheries begs to submit for the consideration of his excellency the governor-general in council the following papers:

(a) A letter from Collector Hamley, of Victoria, British Columbia, dated 1st September, 1887, inclosing certain papers in reference to the seizure of the Canadian sealing schooner *Alfred Adams* in Behring Sea;

(b) The declaration of William Henry Dyer, of Victoria, British Columbia, master of the Canadian schooner *Alfred Adams*;

(c) A certificate of seizure of the *Alfred Adams* signed by L. G. Shepard, captain of the United States revenue steamer *Rush*;

(d) A sealed and unopened letter directed to the United States district attorney and the United States marshal, Sitka, Alaska;

(e) A letter from Collector Hamley, of Victoria, British Columbia, dated 26th July, relating to the detention of the Canadian schooners *Onward*, *Carolina*, and *Thornton*, seized in August, 1886, by the United States cutter *Corwin* in Behring Sea.

(f) Copy of a telegram and order purporting to be from the United States Attorney-General and Judge Dawson, respectively, relating to the release of the above-named vessels; and

(g) A letter, dated September 3, 1887, from the law firm of Drake, Jackson & Helmcken, of Victoria, containing additional information relating to the same.

From the above-mentioned papers it appears that on the 6th of August, 1887, the Canadian schooner *Alfred Adams*, whilst engaged in catching seals in the open sea, more than 50 miles distant from the nearest land, was forcibly seized by an armed vessel of the United States, her ship's papers taken, her cargo of seal-skins, 1,386 in number, together with all her arms, ammunition, and fishing implements, transferred to the United States cutter, and her captain ordered to proceed with sealed orders to Sitka and deliver himself, his vessel, and men into the hands of the United States marshal at that place.

This treatment of the *Alfred Adams*, whilst peaceably pursuing her lawful calling on the high seas, is but a repetition of the unjustifiable seizures of Canadian vessels made by the United States authorities in Behring Sea, and which have been dealt with at length in previous reports to council.

The minister, therefore, does not consider it necessary in this instance to traverse the ground already so fully covered, and recommends that a copy of this report, with the papers attached, be forwarded to Her Majesty's Government for their earnest and immediate consideration, and that a copy thereof be sent to the British minister at Washington, together with the sealed letter given by Captain Shepard to the master of the *Adams*, with the request that it be forwarded to Mr. Secretary Bayard. With reference to the attached papers E, F, and G, the minister observes that from the first, E, it appears that inquiries made by the collector of customs at Victoria, British Columbia, in July last, resulted in his obtaining the information that Judge Dawson had, up to that date, received no orders for the release of the Canadian sealing vessels seized in 1886; that the vessels had not been sold and remained still under seizure, and that Judge Dawson, when questioned as to the report that a telegram had been sent to him by the Attorney-General of the United States ordering the release of the vessels, had replied that he had heard of this report before, but that nothing of the kind had reached either himself or the United States marshal at Sitka. The paper marked F purports to be a copy of a telegram dated January 26, 1887, from United States Attorney-General Garland to Judge Dawson, ordering him to release the vessels seized in August preceding, and of order founded thereon from Judge Dawson to the United States marshal at Sitka, bearing date February 19, 1887, directing him to release the *Carolina*, *Onward*, *Thornton*, and *San Diego*, together with all their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels. The third paper, marked G, is a copy of a letter from the

law firm of Drake, Jackson & Helmcken, of Victoria, British Columbia, to the minister of justice, informing him that they are advised that a telegram was received by Judge Dawson from the United States Attorney-General, ordering the release of the vessels above referred to; that Judge Dawson did issue an order accordingly, but that he afterwards rescinded the order on the assumption that the telegram was a forgery, and that since "no official letters of any sort, either confirming the telegram or respecting the affair, have been received at Sitka."

The minister observes that if the information conveyed in the above-mentioned papers is correct, of which there appears no reasonable doubt, it reveals a state of affairs by no means satisfactory.

On the 2d of February, 1887, Mr. Secretary Bayard informed the British minister at Washington that "orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith." A telegram in accordance with Mr. Bayard's communication appears to have been sent to Alaska, and an order based thereon to have been issued by the district judge, but to have been afterwards rescinded, and no further action has been taken up to date of latest information. Meanwhile the vessels remain under seizure, the seal skins are forfeited, and the property of Canadian citizens forcibly withheld from them under circumstances which involve very great loss and damage.

The minister further observes that, with a view of guiding the action of Canadian citizens interested in sealing in the northern seas, repeated attempts were made previous to the commencement of the present season to obtain an official expression from the United States Government of the policy they proposed to pursue in their treatment of foreign vessels sealing in Behring Sea, but that these efforts proved altogether unavailing. From Mr. Bayard's communication of February 3, 1887, above referred to, the fair inference, however, was to be drawn that, until the question in dispute between the two Governments as to the legality of the previous seizures had been finally disposed of, no further seizures would be made. And there is no doubt that on the strength of this communication and in the absence of any explicit statement of policy to the contrary, Canadian citizens did, in the beginning of the present season, embark upon their customary sealing expeditions to Behring Sea, under the reasonable impression that they would not be interfered with by the United States authorities so long as they conducted their operations in the open sea, only, however, to find their vessels seized, their property confiscated, and their ventures completely ruined.

It is respectfully submitted that this condition of affairs is in the highest degree detrimental to the interests of Canada, and should not be permitted to continue. For nearly two years Canadian vessels have been exposed to arbitrary seizure and confiscation in the pursuit of a lawful occupation upon the high seas, and Canadian citizens subjected to imprisonment and serious financial loss, while an important and remunerative Canadian industry has been threatened with absolute ruin. This course of action has been pursued by United States officers in opposition to the contention in the past of their Government in regard to the waters in which these seizures have taken place, in violation of the plainest dictates of international law, and in the face of repeated and vigorous protests of both the Canadian and British Governments.

The minister advises that Her Majesty's Government be again asked to give its serious and immediate attention to the repeated remonstrances of the Canadian Government against the unwarrantable action of the United States in respect to Canadian vessels in Behring Sea, with a view to obtain a speedy recognition of its just rights and full reparation for the losses sustained by its citizens.

The whole respectfully submitted.

GEO. E. FOSTER,
Minister of Marine and Fisheries.

[Inclosure No. 3.]

Hon. Mr. Hamley to Hon. Mr. Foster.

CUSTOM-HOUSE, Victoria, Septémbre 1, 1887.

SIR: On the 7th August the master of the United States revenue-cutter *Rush* seized in Behring Sea, 60 miles from any land, the Canadian schooner *Alfred Adams*. Her register, clearance, guns, and ammunition, and the seal skins she had taken (1,386) were all taken from her and the vessel herself ordered to Sitka. No one from the revenue-cutter was put on board by Captain Shepard, and the master of the *Alfred Adams*, instead of going as he was desired to Sitka, returned to Victoria, arriving here August 31. I forward the master's deposition before a notary public and what Captain Shepard is pleased to term a certificate of the schooner's seizure signed by himself. Mr. Drake, a solicitor, is at Sitka waiting for the case to be heard in

court; the trial was delayed for the arrival of the *Rush* and she was expected about the beginning of this month. Mr. Drake will, no doubt, report direct to the minister of justice.

I have the honor to be, sir, your obedient servant,

W. HAMLEY.

I inclose also a sealed letter addressed by Captain Shepard to the district attorney and United States marshal, at Sitka, which the master of the *Alfred Adams* brought down with him and which you can deal with in any way you think fit.

W. HAMLEY.

Hon. GEORGE E. FOSTER,
Minister of Marine.

[Inclosure No. 4.]

Declaration of W. H. Dyer.

In the matter of the seizure of the sealing schooner *Alfred Adams* by the United States revenue-cutter *Richard Rush*.

I, William Henry Dyer, of Victoria, B. C., master mariner, do solemnly and sincerely declare that:

(1) I am the master of the schooner *Alfred Adams*, of the port of Victoria, British Columbia, engaged in the business of catching seals. On the 6th of August, 1887, while on board the said schooner and in command of the same, being in latitude $54^{\circ} 48'$ N. and longitude $167^{\circ} 49'$ W., the United States revenue-cutter *Richard Rush* steamed alongside, lowered a boat commanded by the first lieutenant and boat's crew. The said lieutenant came on board the said *Alfred Adams* and ordered me to take the ship's register, log-book, articles, and all other of the ship's papers on board the *Richard Rush*. In obedience to his command I took all said papers and accompanied the said lieutenant on board the *Rush*. When I arrived on board the *Rush* the captain of the *Rush* asked me what was my business in the Behring Sea. I replied, taking seals. He inquired how many skins I had. I replied 1,386. He then said he would seize the ship, take the skins, arms, ammunition, and spears. I stated I did not think the ship was liable to seizure, as we had never taken a seal within 60 miles of Unalaska nor nearer St. Paul's than 60 miles south of it, and that we had never been notified that the waters were prohibited unless landing and taking them from the island of St. Paul's. He stated he must obey the orders of his Government, and that our Government and his must settle the matter, and ordered me to proceed on board the said schooner and deliver up my arms, ammunition, skins, and spears. He sent two boats belonging to the *Rush* in charge of the first and second lieutenant of the *Rush*, respectively, and manned with sailors from the *Rush*, who came on board the said schooner (I returning in company with the first lieutenant).

They took from the said schooner 1,386 skins, 4 kegs of powder (3 triple F and 1 blasting powder), 500 shells, 3 cases of caps and primers, 9 breech-loading double-barreled shot-guns, 1 Winchester rifle, all in good order, and 12 Indian spears, and he then gave me a sealed letter addressed to the United States marshal and United States district attorney at Sitka; he also gave me an acknowledgment of the goods taken and also gave me a certificate that the said schooner was under seizure, and after being alongside for about three and a half hours, I received orders in writing to proceed to Sitka and report to the United States district attorney and marshal. We then parted company. My crew consisted of myself, mate, two seamen, one Chinese cook, and twenty-one Indians. Previous to the said seizure we had spoken the schooner *Kate*, of Victoria, and had been informed by the mate of that vessel that the crews (and particularly the Indians) taken to Sitka on schooners previously seized had been very badly treated. The Indians became very mutinous on learning that we were to proceed to Sitka and report to the United States authorities, and declared they would not go to Sitka, and to avoid trouble I came to Victoria instead of going to Sitka. I arrived in Victoria on August 31, 1887, at about 7 p. m.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the oaths ordinance, 1869.

W. H. DYER.

Declared before me this 1st day of September, 1887, at Victoria, British Columbia.

H. DALLAS HELMCKEN,
Notary Public in and for the Province of British Columbia.

[Inclosure No. 5.]

*Certificate of seizure.*UNITED STATES REVENUE STEAMER RUSH,
*Behring Sea, August 6, 1887.**To whom it may concern:*

This will certify that I have this day seized the British schooner *Alfred Adams*, of Victoria, B. C., Captain W. H. Dyer, master, for violation of law, and have taken charge of his ship's papers, viz, register, shipping articles, clearance, bill of health, and log-book; also her arms and seal skins.

Very respectfully,

L. G. SHEPARD,
Captain, United States Revenue Marine.

[Inclosure No. 6.]

*Hon. Mr. Hamley to Hon. Mr. Foster.*CUSTOM-HOUSE, *Victoria, July 26, 1887.*

DEAR SIR: Captain Carroll, master of the American steamer *Olympian*, has been taking parties of excursionists to Sitka, and I asked him to see the judge, Mr. Dawson, and find out something we could trust respecting the seized vessels. Dawson told him he had received no orders whatever for the release of the vessels; they have not been sold, and remain as they were, under seizure. Captain Carroll told Dawson of the telegram, dated last January, purporting to have been sent by Mr. Garland, Attorney-General at Washington, in the President's name, ordering the vessels to be released. Dawson said he had heard of it before, and that it must have been, as he termed it, a "put up thing," as nothing of the kind had reached either himself or the United States marshal at Sitka.

The serious part is, that our people, trusting to the story of the order for release, have sent thirteen vessels again this year to the sealing grounds—one has been seized already, and if the others fall in the way of the revenue-cutters they will probably be seized also. I may perhaps hear something more from the admiral when he returns from Alaska, and if so I will write to you again.

Yours, very truly,

W. HAMLEY.

Hon. GEO. E. FOSTER, etc.

[Inclosure No. 7.]

*Attorney-General to Judge Dawson.*WASHINGTON, D. C., *January 26, 1887.*

Judge LAFAYETTE DAWSON and

M. D. BALL,

United States District Attorney, Sitka, Alaska:

I am directed by the President to instruct you to discontinue any further proceedings in the matter of the seizures of the British vessels *Carolina*, *Onward*, and *Thornton*, and discharge all vessels now held under such seizure and release all persons that may be under arrest in connection therewith.

A. H. GARLAND,
Attorney-General.

[Inclosure No. 8.]

Judge Dawson to United States marshal.

BARTON ATKINS,

United States Marshal for the District of Alaska:

You are hereby directed to release the vessels *Carolina*, *Onward*, and *Thornton*, and *San Diego*, which were seized in Behring Sea for violation of section 1956, United States Statutes, together with their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels, this 19th day of February, 1887.

LAFAYETTE DAWSON,
District Judge, District of Alaska.

[Inclosure No. 9.]

*Messrs. Drake, Jackson & Helmcken to minister of justice.*VICTORIA, BRITISH COLUMBIA,
September 3, 1887.

SIR: We have the honor to inform you that we are in receipt of a letter from our Mr. Drake, written from Sitka, under date 28th August, in which he states that a telegram was received at Sitka relative to the schooners seized last year, from the United States Attorney-General, Garland, directing their release and discharge of the men. The judge gave an order accordingly, which was afterwards rescinded on the assumption that the telegram was a forgery. No official letter of any sort, either confirming the telegram or respecting the affair, has been received at Sitka. The schooners now seized and at Sitka are the *Anna Beck*, *W. P. Sayward*, *Dolphin*, and *Grace*. The *Alfred Adams* was also seized. The trial of the present men, Mr. Drake states, would not take place until after the arrival of the revenue-cutter *Rush*; also that, judging from the past and the views held by the court, the result would most probably be the same, and urges that immediate steps should be taken to prevent the imprisonment of the masters, and that he would obtain declarations from the masters duly certified and enter a protest at the trial.

The *Rush* was not expected at Sitka until yesterday.

Regarding the seizure of the *Alfred Adams*, we have to state that that schooner has arrived here safely. The declarations of her captain, Dyer, and his men have been duly taken, which her owners, Messrs. Guttman & Frank, of this city, yesterday handed to Hon. Mr. Hamley, collector of customs, together with a sealed letter, which the commander of the *Rush* handed to Captain Dyer to be delivered to the district attorney at Sitka. These papers no doubt Mr. Hamley has already forwarded to the proper Department.

We have since forwarded a copy of this information to the right honorable Sir John A. Macdonald, K. C. B.

We have, etc.,

DRAKE, JACKSON & HELMCKEN.

Hon. J. S. D. THOMPSON,
Minister of Justice, Ottawa.

[Inclosure No. 10.]

*Deputy minister of justice to deputy minister of fisheries.*DEPARTMENT OF JUSTICE, CANADA,
Ottawa, September 12, 1887.

SIR: I have the honor to inclose for your information a copy of a letter which has been received by the minister of justice from Messrs. Drake, Jackson & Helmcken, in which they report with reference to the sealing vessels which have been seized in the Behring Sea by the United States authorities.

I am to state that the minister of justice has taken no action with respect to this communication, but that he is of the opinion that the minister of marine and fisheries should at his earliest convenience take steps to communicate the substance thereof to the colonial office and to the British minister at Washington.

I have, etc.,

GEO. W. BURBIDGE,
D. M. J.

The DEPUTY MINISTER OF FISHERIES,
Ottawa.

No. 149.

*Lord Lansdowne to Sir L. S. West.*CITADEL, QUEBEC,
September 26, 1887.

SIR: With reference to previous correspondence I have the honor to forward herewith for your information a copy of an approved minute of the privy council of Canada, dated 21st instant, covering copies of a

report of my minister of marine and fisheries and other papers relating to the seizure and detention of the Canadian sealing schooner *Alfred Adams* and other Canadian vessels by the United States authorities in Behring Sea.

The sealed letter addressed to the United States district attorney and United States marshal at Sitka, Alaska, came into the possession of my government under the circumstances described in the statutory declaration of Captain Dyer, of the *Alfred Adams*. I shall be much obliged if you will have the goodness to cause the letter to be forwarded to Mr. Secretary Bayard. I should add, by way of explanation, that the envelope of the letter, which is described by the minister in his report as "sealed and unopened," appears to have been worn through at one end during the transmission of the papers by post.

LANSDOWNE.

Hon. L. S. SACKVILLE WEST, K. C. M. G.

No. 150.

Sir L. West to Mr. Bayard, September 29, 1887.

(Omitted here, being printed *supra*, No. 18.)

No. 151.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET,
September 29, 1887.

MY LORD: I communicated on 27th instant to the secretary of state for foreign affairs copies of your lordship's dispatches Nos. 325 and 338, of the 19th and 27th of August, respectively, relating to the seizure in Behring Sea by a United States revenue-cutter of the British Columbian vessels *Grace*, *Dolphin*, and *W. P. Sayward*.

I now have the honor to transmit to you for the information of your ministers a copy of a letter from the foreign office, inclosing a copy of a dispatch which the Marquis of Salisbury has addressed upon this subject to Her Majesty's minister at Washington.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the most Hon. the MARQUIS OF LANSDOWNE,
G. C. M. G., etc.

[Inclosure No. 1.]

Foreign office to colonial office.

FOREIGN OFFICE, *September 27, 1887.*

SIR: I laid before the Marquis of Salisbury your letter of the 15th instant, inclosing dispatches and other papers, received from the government of Canada, relative to the seizure in Behring Sea by the United States revenue-cutter *Richard Rush* of the British Columbian vessels the *Grace*, the *Dolphin*, and the *W. P. Sayward*.

Lord Salisbury has instructed Her Majesty's minister at Washington to make representations to the United States Government in regard to these cases, in connection with those of the *Carolina*, *Onward*, and *Thornton*; and his lordship has directed Sir L. West to call attention to the fact that in the case of the *W. P. Sayward*, according to her mate's deposition, no seals were taken by her crew in Behring Sea, as is alleged in the libel of information filed in the United States district court.

I inclose a copy of the dispatch addressed to Sir L. West for the information of Secretary Sir H. Holland.

I have, etc.,

W. P. CURRIE.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure No. 2.]

Lord Salisbury to Sir L. S. West.

FOREIGN OFFICE, September 27, 1887.

SIR: I transmit to you herewith copies of two dispatches, No. 325, 19th, and No. 338, 27th ultimo, addressed to Her Majesty's secretary of state for the colonies by the governor-general of Canada, forwarding papers relative to the seizure in Behring Sea by the United States revenue-cutter *Richard Rush* of three British Columbian vessels, the *Grace*, the *Dolphin*, and the *W. P. Sayward*.

I have to request that you will make a representation to the United States Government on the subject of the seizure and detention of these vessels, in connection with the representations which I instructed you to make in the cases of the *Onward*, the *Carolina*, and the *Thornton*, and that you will reserve all rights to compensation on behalf of the owners and crew.

You should point out to Mr. Bayard that in the case of the *W. P. Sayward*, according to the deposition of her mate, no seals had been taken by her crew in Behring Sea, as is alleged in the libel of information filed on behalf of the United States district attorney in the district court of Alaska.

I am, etc.,

SALISBURY.

Hon. Sir L. S. WEST, K. C. M. G., etc.

No. 152.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, September 29, 1887.

MY LORD: I have the honor to acquaint you that I duly communicated to the secretary of state for foreign affairs your telegraphic message of the 23d instant, reporting that the vessels seized in Behring Sea last year were still detained by the United States authorities.

I have now to transmit to you for communication to your ministers a copy of a dispatch which Lord Salisbury has addressed to Her Majesty's minister at Washington, dated 27th instant, directing him to inquire the reason why these vessels have not been released.

I have, etc.,

H. T. HOLLAND.

Gov. Gen, the most Hon. the MARQUIS OF LANSDOWNE, etc,

[Inclosure No. 1.]

Lord Salisbury to Sir L. West.

FOREIGN OFFICE, September 27, 1887.

SIR: I transmit to you, for your information, a copy of a letter from the colonial office, dated 24th instant, inclosing a telegram from the governor-general of Canada, from which it appears that the British schooners *Carolina*, *Onward*, and *Thornton*, referred to in your dispatch No. 34 of the 4th February last, have not yet been released.

In his note of the 3d February, inclosed in your above-mentioned dispatch, Mr. Bayard stated that "orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith."

Her Majesty's Government regret to learn that delay has taken place in the release of the three vessels, and I have to instruct you to inquire the reason why the directions of the President, as above quoted, have not been carried out.

I am, etc.,

SALISBURY.

[Inclosure No. 2.]

Colonial office to foreign office.

DOWNING STREET, September 24, 1887.

SIR: With reference to your letter of the 12th August last, and to recent correspondence, I am directed by Secretary, Sir Henry Holland, to transmit to you, for such action upon it as the Marquis of Salisbury may think proper to take, a telegram received this day from the governor-general of Canada relating to the question of the release of the British Columbia sealing vessels seized by the United States authorities in Behring Sea.

This telegram appears to relate to the vessels seized last year.

I am to request to be informed of any communication which may be made to the United States Government in order that a reply may be sent to the governor-general.

I am, etc.,

JOHN BRAMSTON.

No. 153.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, October 8, 1887.

MY LORD: I have the honor to transmit to you for the information of your Government, with reference to previous correspondence, a copy of a dispatch from Her Majesty's minister at Washington, dated the 22d ultimo, on the subject of Behring Sea seizures and to the question of bringing before the Fisheries Commission the Alaska seal fishery question.

I have, etc.,

JOHN BRAMSTON,
For the Secretary of State.

[Inclosure.]

Sir L. West to the Marquis of Salisbury.

BRITISH LEGATION,
Washington, September 23, 1887.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch No. 219, of the 10th instant, and to inform your lordship that I communicated it this day to the Secretary of State and at his request left a copy of it in his hands.

I have, etc.,

L. S. WEST.

The MARQUIS OF SALISBURY, K. G., etc.

No. 154.

No. 81.]

Sir L. S. West to Lord Lansdowne.

WASHINGTON, October 14, 1887.

MY LORD: With reference to my telegram of this day's date I have the honor to inclose to your excellency copy of a note which I have received from the Secretary of State expressing regret that the misconception which has arisen of the intentions and orders of the President for the release of the British schooners *Onward*, *Carolina*, and *Thornton* should have delayed their prompt execution and stating that renewed orders have been forwarded.

I have, etc.,

L. S. SACKVILLE WEST.

His Excellency the MARQUIS OF LANSDOWNE, G. O. M. G., etc.

 [Inclosure.]
Mr. Bayard to Sir L. S. West, October 13, 1887.(Omitted here, being printed *supra*, No. 25.)

 No. 155.
Sir Henry Holland to Lord Lansdowne.

No. 356.]

DOWNING STREET, October 20, 1887.

MY LORD: I am directed by the secretary of state to transmit to you for communication to your ministers the documents specified in the annexed schedule.

I have, etc.,

H. HOLLAND.

THE OFFICER ADMINISTERING THE GOVERNMENT OF CANADA.

 [Inclosure No. 1.]
The admiralty to the colonial office.

ADMIRALTY, October 4, 1887.

SIR: I am commanded by the lords commissioners of the admiralty to transmit for the information of the secretary of state for the colonies copy of a letter from the commander-in-chief on the Pacific Station, dated September 14, No. 158, inclosing a list of the schooners that have been sealing, extracted from the *Victoria Colonist* newspaper dated September 13.

A similar letter has been sent to the foreign office.

I am, etc.,

EVAN MACGREGOR.

The UNDER SECRETARY OF STATE,
Colonial Office.

[Inclosure No. 2.]

Rear-Admiral Seymour to the secretary of the admiralty—Seizure of sealing schooners.

TRIUMPH, at ESQUIMALT, September 14, 1887.

SIR: The sealing season being now over, I have the honor to inclose a list of the schooners that have been sealing, cut from the Victoria Colonist of yesterday's date. It is not yet known whether the five vessels "to arrive" have been seized or not, but they are overdue here.

With regard to the schooner *Alfred Adams*, I am credibly informed she was boarded by the American revenue cruiser in Behring Sea, her skins, 1,500 in number, taken out, as well as her arms, and she was told to proceed to Sitka. No one being put on board, the captain brought his vessel down here.

No orders whatever have ever been received here with regard to the release of the schooners seized last year, which are now, I believe, high and dry at Ounalaska, worm-eaten and worthless.

I have, etc.,

M. CALME SEYMOUR,
Rear-Admiral and Commander-in-Chief.

[Inclosure No. 3.]

The seal catch.—List of vessels arrived with their total catch—Schooners seized.

[From the Daily Colonist, Victoria, British Columbia, of Tuesday, 13th September, 1887.]

The following is the list of sealing schooners which have arrived in port, with their northern catches; also those to arrive and those seized. The coast catch by Indians and the spring catch by American sealers disposed of in Victoria are also appended:

VESSELS ARRIVED.

Name.	Spring catch.	Northern catch.	Total.
Pathfinder	400	2,377	2,817
Penelope	1,000	1,500	2,500
Mary Ellen	367	2,090	2,457
Lottie Fairfield	400	2,600	3,000
Mary Taylor	200	800	1,000
Mountain Chief	400	687	1,087
Black Diamond		964	
Adela	164	1,350	1,51

VESSELS TO ARRIVE.

Ada	349		
Kate	1,030		
Favorite			
Theresa	367		
Triumph	21		

VESSELS SEIZED.

Dolphin			} 1,500
Grace			
Anna Beck			
W. P. Sayward			
Alfred Adams			

The number of seals caught by American schooners and sold in this city is as follows:

Name.	Number of seals.	Name.	Number of seals.
Helen Blum	436	City of San Diego.....	200
Sylvia Handy.....	139	Vanderbilt.....	617
San Jose.....	197	Discovery.....	250

The Neah Bay schooner *Lottie's* northern catch was disposed of the other day and amounted to 700 skins.

This makes the total catch, as far as could be gleaned yesterday, 19,046 skins by British vessels and 2,539 skins disposed of by American schooners.

The catch off the west coast by the Indians and sold to store-keepers was 500.

The total number of skins brought into port for this season will represent in dollars, at \$6.50 per skin, the handsome sum of \$140,302.50.

No. 156.

Lord Lansdowne to Sir H. Holland.

No. 408.]

OCTOBER 20, 1887.

SIR: With reference to previous correspondence upon the subject of the seizure of British sealing vessels in Behring Sea, I have the honor to forward, for your information, a clipping from the Toronto Mail of the 17th instant, publishing in full the Canadian brief prepared by Mr. Drake, Q. C., and filed in the Alaska courts on behalf of the officers of the British sealers seized in Behring Sea.

I also inclose for your information a clipping from the New York Herald of the 13th instant, giving the United States brief filed in the district court at Sitka by Mr. A. K. Delaney, as counsel for the United States Government.

I have, etc.,

LANSDOWNE.

The Right Hon. Sir HENRY HOLLAND, *Bart.*, etc.

[Inclosure No. 1.]

BEHRING SEA.—MR. DRAKE'S MASTERLY ANSWER TO AMERICAN PRETENSIONS.

[Extract from Toronto Mail.]

The Russian claim discussed—Position assumed by the States untenable—Going beyond the recognized law of nations—The seizures entirely illegal.

[From our own correspondent.]

OTTAWA, October 16.

Hitherto only a brief résumé of Mr. Drake's brief in the Alaska courts has been published. As the United States press has recently been making a great parade over the American Government's case, it may not be out of place to give in full the brief prepared by Mr. Drake himself, and filed on behalf of the officers of the British sealers in Behring Sea.

THE BRIEF.

[United States court, district of Alaska. The United States, plaintiff, vs. J. D. Warren and J. C. Riley, defendants.]

Brief in support of the demurrer, filed herein the 30th August, 1887, on behalf of the masters and owners of the British schooners *Anna Beck*, *Dolphin*, *Grace*, and *W. P. Sayward*, seized by the United States cutter for an alleged infraction of an act of the United States Congress, No. 120, being an act to prevent the extermination of fur-bearing animals in Alaska. The act is directed against killing seals in the waters adjacent to the Islands of St. Paul and St. George, and does not refer to any other waters in Behring Sea; but on referring to section 1956 of the Revised Statutes, the language used is somewhat different, prohibiting the killing of fur-bearing animals within the limits of Alaska Territory or the waters thereof. The first question then to be decided is what is meant by the waters thereof. If the defendants are bound by the treaty between the United States and Russia ceding Alaska to the United States, then it appears that Russia in 1822 claimed absolute territorial sovereignty over the Behring Sea, and purported to convey practically one-half of that sea to the United States. But are the defendants, as men belonging to a country on friendly terms with the United States, bound by this assertion of Russia? And can the United States claim that the treaty conveys to them any greater right than Russia herself possessed in these waters? In other words, the mere assertion of a right contrary to the comity of nations can confer on the grantees no rights in excess of those recognized by the laws of nations. In inquiring what that right was and how far it was submitted to by the other powers interested, namely, Great Britain and the United States, we find the United States minister at St. Petersburg in 1822, combatting the pretensions of Russia to a jurisdiction over the waters of Behring Sea for a distance of 100 miles from the coast (for this was the extent of Russia's claim in 1822) in the following expressive language: "The existence of territorial rights to the distance of 100 miles from the coast and the prohibition of approaching to the same distance from these coasts and from those of all intervening islands are innovations on the law of nations and measures unexampled."

We thus find that the assumption of a limited sovereignty over the waters of Alaska was challenged by the United States, and in consequence was not persisted in, and on the 17th April, 1824, a convention was concluded between the United States and Russia, whereby it was agreed, "that in any part of the great ocean commonly called the Pacific Ocean, or South Sea, the respective citizens, subjects of the high contracting powers, should be neither disturbed nor restrained either in navigation nor in fishing, or in the power of resorting to the coasts upon points which might not then already have been occupied for the purpose of trading with the natives, saving always the restrictions and conditions contained in certain articles attached to the treaty referring to illicit trade with the Indians."

THE RUSSO BRITISH TREATY.

The Government of Great Britain, on the 28th February, 1825, also entered into a treaty with Russia in consequence of the same extravagant pretensions of Russia, which treaty contains the following provisions: "It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested in any part of the ocean commonly called the Pacific Ocean, either in navigating the same or fishing therein, or in landing at such parts of the coast as shall not have been already occupied in order to trade with the natives under the conditions and restrictions specified in the then following articles." These restrictions are not dissimilar from those attached to the treaty with the United States. In order to ascertain what were the pretensions of Russia which led to these treaties it is necessary to refer to the edict of the autocrat of all the Russias. By section 1 it is enacted: "That the pursuits of commerce, whaling and fishing, and all other industries on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Behring Straits to 51° of north latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the island of Bruck, namely, 45° 50' northern latitude, is exclusively granted to Russian subjects. Section 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation along with the whole cargo."

RUSSIA'S CLAIM.

Thus it appears that Russia claimed 100 miles from the coasts of all the islands, as well as the mainland of Behring Sea, and south to 45° 50'. It was this claim that

led to the indignant remonstrance of the United States and Great Britain, and to the treaties before referred to, and shows that Behring Sea was included in the term "Pacific Ocean." The pretensions of Russia were never revived, and the citizens of Great Britain as well as the United States had free access at all times to these waters in navigating and fishing without any restriction. And Russia's claim was never revived until she purported to cede to the United States a portion of Behring Sea. Russia could not sell what she did not own, and the United States could not claim that which it was not in the power of Russia to sell. The treaty with England has never been abrogated, and was in force when the cession to the United States took place, and there was no need to protest against the extravagant pretensions of Russia in purporting to dispose of the high seas, as until last year no attempt has been made to enforce such a claim. The United States have always been the strongest upholders of the law of nations, and on this head Kent's Commentaries, page 28: "The open sea is not capable of being possessed as private property; the free use of the ocean for navigation and fishing is common to all mankind, and the public jurists generally and explicitly deny that the main ocean can ever be appropriated." He also refers to the claim of Russia, and in another place he states that "the United States have recognized the limitation of a marine league for general territorial jurisdiction by authorizing the district courts to take cognizance of all captures made within a marine league of the American shore." See act of Congress, June 5, 1794. And in Wharton's International Law Digest, page 32, the author says: "The limit of one sea league from shore is provisionally adopted as that of the territorial sea of the United States," and "our jurisdiction has been fixed to extend three geographical miles from our shore, with the exception of any waters or bays which are so land-locked as to be unquestionably within the jurisdiction of the United States, be their extent what they may."

Behring Sea is not a gulf or bay, and is not land-locked by the lands of the United States. Wharton again states that "a vessel on the high seas beyond the distance of a marine league from the shore is regarded as part of the territory of the nation to which she belongs." And Mr. Seward, in a letter to Mr. Tassara, December 16, 1862, tersely states the principle as follows: "There are two principles bearing on the subject which are universally admitted: (1) that the sea is open to all nations, and (2) that there is a portion of the sea adjacent to every nation over which the sovereignty of that nation extends to the exclusion of every other political authority."

A third principle bearing on the subject is that the exclusive sovereignty of a nation abridging the universal liberty of the seas extends no further than the power of the nation to maintain it by force stationed on the coast extends. "*Terre dominitur finitur ubi finitur armorum vis*" (the sovereignty of the coast ends where the power to control it by force of arms terminates). It thus appears that by the comity of nations, sanctioned and approved by American jurists, that the high seas are open to all; that the territorial authority only extends to a marine league or, at all events, not further than a force on shore can protect the coasts.

It also appears that the United States in claiming sovereignty over the Behring Sea is claiming something beyond the well-recognized law of nations, and bases her claim upon the pretensions of Russia, which were successfully repudiated by both Great Britain and the United States. A treaty is valid and binding between the parties to it, but it cannot affect others who are not parties to it. It is an agreement between nations, and would be construed in law like an agreement between individuals. Great Britain was no party to it and therefore is not bound by its terms.

It is therefore contended that the proceedings taken against the present defendants are *ultra vires* and without jurisdiction. But, in order to press the matter further, it may be necessary to discuss the act itself under which the alleged jurisdiction is assumed. The act must be construed by what appears within its four corners and not by any extrinsic document. It is an act defining a criminal offense, and an act which abridges the privileges and immunities of citizens must be most strictly construed; and nothing but the clearest expression can or ought to be construed against the interest of the public in applying this principle to the present case. The terms used in the act itself are "the waters adjacent to the islands of St. George and St. Paul." "Adjacent," in Wharton, page 846, is held to be adjacent to the coast and within the territorial jurisdiction of the country. This language, then, does not apply to these defendants who are fifty miles from the nearest coast. In section 1956 the language is "the waters of Alaska." This must also be construed by the universal law as applying to the territorial limit only. And in a letter from Mr. Evarts to Mr. Foster, in April, 1879, referring to a case in which certain American merchant vessels were seized by the Mexican authorities for an alleged breach of the revenue laws, although distant more than three miles from shore it was held to be an international offense, and was not cured by a decree in favor of the assailants by a Mexican court. So here it is submitted that a decree of your honor's court will not give any validity to the seizures here made, and the defendants in filing their demurrer and submitting this argument do not thereby waive their rights or submit to the jurisdiction of the court.

No. 157.

Lord Lansdowne to Sir H. Holland.

No. 409.]

OTTAWA, October 20, 1887.

SIR: I have the honor to transmit to you a copy of an approved report of a committee of the privy council, to which is appended a copy of a dispatch from his honor the lieutenant-governor of British Columbia, covering a minute of his executive council, dated 15th instant, setting forth the value to British Columbia of the present sealing industry in Behring Sea.

You will observe that the executive council of British Columbia consider that the rights of British subjects, as regards the Behring Sea, should be included in the scope of the duties of the international fisheries commission.

I have, etc.,

LANDSDOWNE.

The Right Hon. Sir H. HOLLAND, *Bart.*, etc.

[Inclosure No. 1.]

Certified copy of report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 15th October, 1887.

The committee of the privy council have had under consideration a despatch, dated 15th September, 1887, from the lieutenant-governor of British Columbia, enclosing copy of a minute of his executive council on the subject of the seizure of British sealing vessels in Behring Sea, and pointing out the threatened destruction of an important and growing industry in British Columbia, by a repetition of outrages on the part of United States cruisers.

The minister of marine and fisheries, to whom the despatch and enclosures were referred, recommends that the Government of British Columbia be informed that no opportunity has been neglected on the part of the Dominion Government of bringing to the attention of the Government of Her Majesty the unlawful seizure of Canadian vessels in Behring Sea, and requesting that a speedy and satisfactory settlement of the losses sustained be urged upon the United States Government, and that the representations made by the Government of British Columbia have been forwarded to Her Majesty's Government.

The committee advise that the secretary of state be authorized to transmit a copy of this minute to the lieutenant-governor of British Columbia for the information of his government.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

[Inclosure No. 2.]

Letter of the lieutenant-governor of British Columbia.

HARRISON HOT SPRINGS, BRITISH COLUMBIA,
September 15, 1887.

SIR: I have the honor to transmit herewith copy of a minute of my executive council, approved by me on the 9th instant, representing the value to the Province of British Columbia of the present sealing industry in Behring Sea, the number of vessels, men, etc., engaged in the same, the loss to the Province certain to ensue from the destruction of this trade by the seizures and confiscations made by the United States cruisers. That the rights of British subjects should have the same protection and consideration on the Pacific as on the Atlantic, and that full compensation and redress for injuries already received, and assurances of future non-interference should be obtained from the United States Government.

That this question should be included in the scope of the duties of the international fishery commission, now understood to be in process of organization, and that it is desirable said commission should hold some of its sittings in Victoria for reasons therein set forth, etc.

I have the honor to be, sir, your obedient servant,

HUGH NELSON,
Lieutenant-Governor.

The SECRETARY OF STATE,
Ottawa.

[Inclosure No. 3.]

Copy of a report of a committee of the honorable the executive council, approved by his honor the lieutenant-governor on the 9th day of September, 1887.

On a memorandum from the honorable the minister of finance and agriculture, dated the 6th September, 1887, setting forth—

That there are usually engaged in seal fishing in Behring Sea seventeen vessels wholly owned by people residing in this city, of the aggregate value of \$125,000.

That the outfit for each semi-annual voyage of these vessels represents an expenditure of \$75,000, equal to \$150,000 a year.

That each of these vessels, on an average, employs a crew of five whites and about twenty Indians or fifteen to eighteen whites as hunters.

That the probable aggregate value of the product of each voyage is \$200,000, or \$400,000 a year.

That this industry though as yet only in its infancy, is a very important one for so small a community

That the glaring and unlawful seizures and confiscations in Behring Sea during last season and the present year are completely crushing out this infant industry and causing ruin and, in several known instances, actual distress to those who have invested their all in the business and relied upon it for a livelihood.

That the destruction of this industry not only entails ruin and distress upon those directly engaged therein, but it affects most injuriously the trade of the province and drives from these waters a race of hardy and adventurous fishermen, who, with their families, are large consumers, and who would in time become a very important element of strength, if not the nucleus of the future navy of Canada on the Pacific.

That the rights and interests of British subjects, whether in fisheries or in commerce, are entitled to the same consideration and protection on the Pacific as on the Atlantic, and that it is therefore the duty of the Dominion Government to employ every proper means for obtaining immediate and full compensation and redress for past injuries and wrongs, as well as to guard against the possibility of a repetition of these high-handed outrages in the future.

That it is believed to be desirable that this question should be included in the scope of the duties of the international commission now understood to be in process of organization for the settlement of the fishery disputes existing between Canada and the United States of America, and it is considered most important that the said commission should hold one or more of its sittings in this city, in order that those more directly acquainted with and interested in the Pacific fisheries may have a better opportunity of being heard and making the commissioners more thoroughly acquainted with the subject than would otherwise be possible.

The committee advise approval and that a copy of this minute be forwarded to the honorable the secretary of state for Canada.

Certified.

JNO. ROBSON,
Clerk Executive Council.

No. 158.

Sir L. West to Mr. Bayard, October 26, 1887.

(Omitted here, being printed *supra*, No. 31.)

No. 159.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, November 4, 1887.

MY LORD: I have the honor to transmit to you for the information of your ministers, with reference to your dispatch, No. 372, of the 26th of September, the accompanying copy of a correspondence between this department and the foreign office, 12th and 20th October, 1887, respecting the seizures of British vessels in Behring Sea.

Her Majesty's minister at Washington has now been instructed to give to the Secretary of State of the United States a copy of Mr. Foster's report of the 15th of September, on which subject telegraphic communications have passed between myself and Your Lordship.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS of LANSDOWNE, etc.

[Inclosure No. 1.]

The colonial office to the foreign office.

DOWNING STREET, October 17, 1887.

SIR: I am directed by Secretary Sir H. Holland to transmit to you, to be laid before the Marquis of Salisbury, copy of a dispatch from the governor-general of Canada, dated 26th September, with its inclosures, respecting the seizure in Behring Sea of the British schooner *Alfred Adams*.

These papers appear to Sir H. Holland to point to a serious state of things, which seem to make it necessary that some decided action in the matter should be taken by Her Majesty's Government. And he would suggest for the consideration of Lord Salisbury, whether it would not be desirable to instruct Sir L. West, unless he has already done so, formally to protest against the right assumed by the United States of seizing vessels for catching seals beyond the territorial waters of Alaska.

I am to add that Sir H. Holland makes this suggestion, as Mr. Bayard is reported in the newspapers to have stated that no protest against their right to seize had been made, and to have assumed therefore that Her Majesty's Government did not really dispute it.

I am, etc.,

JOHN BRAMSTON.

The UNDER SECRETARY OF STATE,
Foreign Office.

[Inclosure No. 2.]

The foreign office to the colonial office.

FOREIGN OFFICE, October 20, 1887.

SIR: I am directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 17th instant, inclosing copies of a correspondence received from the governor-general of Canada, relative to the seizures made by the authorities of the United States of certain British vessels when engaged in seal-fishing in Behring Sea.

With reference to the latest case reported, that of the Canadian schooner *Alfred Adams*, I am to request that you will inform Sir H. Holland that a telegram has been sent to Her Majesty's minister at Washington, directing him to make a protest to the United States Government against the seizure of that vessel and the continuance on the high seas of similar proceedings by the authorities of the United States.

With regard to the report that it had been stated by Mr. Bayard that no protest had been made against the right of those authorities to make these seizures, and that it had therefore been assumed that Her Majesty's Government did not really dispute the

right, I am to remind you that Sir L. West, acting on the instructions which were given to him by the Earl of Idlesleigh on the 20th of October, 1886, addressed a note to the United States Secretary of State protesting in the name of Her Majesty's Government against the seizure of the three Columbian schooners, *Thornton*, *Onward*, and *Caroline*, by the United States revenue cruiser *Corwin*. This correspondence was forwarded with my letter of the 16th of November last.

I am further to point out that the directions given to Sir L. West in regard to subsequent seizures of other British vessels in Behring Sea during the present fishing season which were embodied in Lord Salisbury's dispatches, Nos. 219 and 229 of the 10th and 27th ultimo (copies of which were also communicated to you on those dates respectively), amount to a protest against the assumption by the United States Government of their right to seize British vessels on the high seas in those waters.

I am to request that in laying this letter before Sir H. Holland, you will move him to ascertain by telegraph whether the report of Mr. Foster (the Canadian minister of marine and fisheries) of the 15th ultimo, has been communicated by Lord Lansdowne, with the papers attached, to Her Majesty's minister at Washington, as suggested in the report.

On learning that this has been done, Lord Salisbury proposes to authorize Sir L. West to give a copy of them to Mr. Bayard.

I am, etc.,

J. PAUNCEFOTE.

No. 160.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, November 16, 1887.

MY LORD: I have the honor to transmit to you, for communication to your ministers, with reference to your dispatches of the numbers and dates, No. 408, October 20, No. 372, September 26, telegram September 23, the accompanying printed correspondence received from the foreign office respecting the seizure of the British Columbian sealing vessels in Behring Sea.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the Most Hon. the MARQUIS OF LANSDOWNE,
K. C. M. G.

[Inclosure No. 1.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, October 12, 1887.

MY LORD: In accordance with the instructions contained in your lordship's telegram, No. 39, of the 27th ultimo, I addressed a note to the Secretary of State, copy of which I had the honor to inclose to your lordship in my dispatch, No. 273, of the 28th ultimo, inquiring the reason why the vessels referred to in his note of the 3d of February last had not been released, and I now inclose copy of the reply which I have received thereto.

I have, etc.

L. S. SACKVILLE WEST.

[Inclosure No. 2.]

Mr. Bayard to Sir L. West, October 11, 1887.

(Omitted here, being printed *supra*, No. 22.)

[Inclosure No. 3.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, October 12, 1887.

MY LORD: With reference to your lordship's dispatch, No. 220, of the 15th ultimo, respecting the judicial proceedings in the cases of the schooners *Carolina*, *Onward*, and *Thornton*, I have the honor to refer to the memoranda contained in my dispatches, No. 261, of the 6th, and No. 263, of the 9th September. From what I can ascertain, the notice of appeal in these cases is still lying in the Sitka court, for there is no court to which, under the act of Congress, the injured parties could appeal, and as in the case of the American vessel *San Diego*, no further steps can be taken in the matter.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure No. 4.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, October 12, 1887.

MY LORD: In accordance with the instructions contained in your lordship's dispatch, No. 229, of the 27th ultimo, I addressed a note to the Secretary of State, copy of which I have the honor to inclose herewith, making similar representations respecting the seizure of the British vessels *Grace*, *Dolphin*, and *W. P. Sayward*, as were made in the cases of the *Onward*, *Carolina*, and *Thornton*, and reserving all rights to compensation on behalf of the owners and crews.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure No. 5.]

Sir L. West to Mr. Bayard, October 12, 1887.(Omitted here, being printed *supra*, No. 23.)

[Inclosure No. 6.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, October 14, 1887.

MY LORD: I have the honor to inclose your lordship herewith copy of the reply which I have received to my note of the 12th instant, copy of which was inclosed in my dispatch of No. 278, of the 12th instant, respecting the seizure of the *Grace*, *Dolphin*, and *W. P. Sayward*.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure No. 7.]

Mr. Bayard to Sir E. West, October 13, 1887.(Omitted here, being printed *supra*, No. 26.)

[Inclosure No. 8.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, October 14, 1887.

MY LORD: With reference to the note from the Secretary of State, copy of which was inclosed in my dispatch, No. 276, of the 12th instant, I have the honor to inclose to your lordship herewith copy of a further reply to my note of the 29th ultimo, ex-

pressing regret that misconception of the intentions and orders of the President for the release of the sealers *Onward*, *Carolina*, and *Thornton* should have delayed their prompt execution, and stating that renewed orders have been forwarded.

I have communicated copy of this note to the Marquis of Lansdowne, the substance of which I telegraphed your lordship this day.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure No. 9.]

Mr. Bayard to Sir L. West, October 13, 1887.

(Omitted here, being printed *supra*, No. 25.)

[Inclosure No. 10.]

Sir L. West to the Marquis of Salisbury.

WASHINGTON, October 20, 1887.

MY LORD: I have the honor to inclose to your lordship herewith copy of a note, which upon the receipt of your lordship's telegram of the 19th, I addressed to the Secretary of State protesting against the seizure of the Canadian vessel *Alfred Adams*, in Behring Sea, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure No. 11.]

Sir L. West to Mr. Bayard, October 19, 1887.

(Omitted here, being printed *supra*, No. 29.)

No. 161.

Sir H. Holland to Lord Lansdowne.

No. 399.]

DOWNING STREET, November 24, 1887.

MY LORD: With reference to my dispatches of the 4th and 16th instant, I have the honor to transmit to you herewith, for communication to your Government, a copy of a dispatch received through the foreign office from Her Majesty's minister at Washington with its inclosure relating to the seizure of the *Alfred Adams* in Behring Sea.

I have, etc.,

H. T. HOLLAND.

Gov. Gen., the Most Hon. the MARQUIS OF LANSDOWNE, G. C. M. G.

[Inclosure No. 1.]

Sir L. S. West to the Marquis of Salisbury.

WASHINGTON, October 23, 1887.

MY LORD: With reference to my dispatch No. 288 of the 20th instant, in which I had the honor to inclose copy of the note which, according to instructions, I addressed

to the United States Government on the subject of the seizure of the *Alfred Adams*, in Behring Sea, I have the honor to transmit herewith copy of Mr. Bayard's reply, in which he acknowledges the receipt of my above-mentioned communication.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure No. 2.]

Mr. Bayard to Sir L. S. S. West, October 22, 1887.

(Omitted here, being printed *supra*, No. 30.)

No. 162.

Sir H. Holland to Lord Lansdowne.

DOWNING STREET, December 7, 1887.

MY LORD: I have the honor to transmit to your lordship herewith, for your information and for that of your ministers, a copy of a dispatch, received through the foreign office, which has been addressed by the secretary of state for foreign affairs to Her Majesty's plenipotentiaries at the fisheries conference at Washington, relative to a proposed international convention for the protection of seals in Behring Sea.

I have, etc.,

H. T. HOLLAND.

Gov. Gen. the most Hon. the MARQUIS OF LANSDOWNE,
G. C. M. G., etc.

[Inclosure.]

Lord Salisbury to Her Majesty's plenipotentiaries at the Fisheries Conference.

FOREIGN OFFICE, December 2, 1887.

GENTLEMEN: I received on the 26th instant a telegram from Mr. Chamberlain, inquiring whether a proposal for an international conference in regard to the Behring Sea fisheries had been accepted by Her Majesty's Government.

You are aware from the correspondence which is in your possession that communications with reference to a proposal, which would appear to have been addressed to some of the maritime powers by the United States foreign international convention for the protection of seals in the Behring Sea, were received last October from the German and Swedish *chargés d'affaires* in London.

No definite invitation, however, for an international understanding on this question has yet been received from the Government of the United States by Her Majesty's Government.

In answer to a question from Mr. Phelps, I have expressed myself as being favorably disposed to negotiating for an agreement as to a close season in all seal fisheries to whomsoever belonging, but I carefully separated the question from all controversies as to fishery rights.

I am, etc.,

SALISBURY.

Her Majesty's PLENIPOTENTIARIES.

No. 163.

Lord Lansdowne to Sir Henry Holland.

OTTAWA, January 19, 1888.

SIR: In reference to my former dispatches upon the subject of the seizure of Canadian sealing vessels, during the years 1886 and 1887, by United States cruisers, for fishing in Behring Sea, I have the honor to report that my minister of marine and fisheries has received from the customs authorities at Victoria an intimation addressed by the United States marshal at Sitka to Mr. Spring, the owner of the *Onward*, one of the three vessels seized in 1886, to the effect that that vessel as well as the *Thornton* and *Carolina*, with their tackle, apparel, and furniture, as they now lie in the harbor of Ounalaska, are to be restored to their owners. A copy of this intimation is inclosed herewith.

(2) The information received by my minister is to the effect that the condition of these three vessels, owing to the length of time during which they have been lying on the shore, is now such as to render it questionable whether they could, under the present circumstances, be repaired and removed with advantage. The difficulty of doing this would be increased from the fact that the vessels have been released at a season of the year in which, owing to the great distance between Victoria and Ounalaska, it would be scarcely possible for the owners to fit out steamers for the purpose of going up to Ounalaska to repair their vessels and bring them home.

(3) I also inclose herewith a copy of an extract from a British Columbia newspaper (the name and date of the publication are not given), from which it would appear that the district judge has made an order for the sale of arms and ammunition taken from the three schooners in question, upon the supposed ground that as the instructions sent by the United States Government to Sitka for the liberation of the vessels made no mention of the arms and ammunition on board of them, the court concluded that these should be confiscated and sold. It would seem from the same extract that the remaining vessels held in Alaska are not included in the order sent by the United States Government for the release of the *Thornton*, *Carolina*, and *Onward*, and are therefore likely to be sold with their contents and equipment.

(5) I have already dwelt at sufficient length upon the extent of the hardships involved to the crews and the owners of these vessels by the action of the United States Government, and I will only upon the present occasion remind you that another fishing season is approaching, and that as far as my Government is aware, no declaration has been made by that of the United States in regard to the policy which it intends to adopt during the course of the year which has just commenced.

I have, etc.,

LANSDOWNE.

The Right Hon. Sir HENRY HOLLAND, *Bart.*, etc.

[Inclosure 1.]

*Mr. Barton Atkins to Mr. C. Spring.*DISTRICT OF ALASKA, OFFICE OF UNITED STATES MARSHAL,
Sitka, December 5, 1887.

SIR: I take pleasure in informing you and the other owners of the schooners seized in the Behring Sea by the U. S. S. *Corwin* that I am in receipt of orders from Washington

to restore to their owners the schooners *Onward*, *Thornton*, and *Carolina*, their tackle, apparel, and furniture, as they now lie in the harbor of Ounalaska. Orders for their release have been forwarded to their custodian at Ounalaska.

Very respectfully,

Mr. C. SPRING,
Victoria, B. C.

BARTON ATKINS,
United States Marshal, District of Alaska.

[Inclosure 2.—Extract from an American newspaper (name and date unknown).]

Alaska news—The sealers and what will be done with them.

Judge Dawson has made an order for the sale at Juneau of the arms and ammunition taken from the British schooners *Thornton*, *Carolina*, and *Onward*, captured last year by the *Corwin*. Attorney-General Garland sent instructions to Sitka to have the three vessels liberated, but as he made no mention of the arms and ammunition the court concluded that they must be sold, and gave directions accordingly.

The marshal has further been authorized to sell the schooner *W. P. Sayward* (British), and the *Alpha*, *Kate*, *Anna*, and *Sylvia Handy* (American), together with their boats, tackle, and furniture. By stipulation entered into last September between Mr. Delaney, acting for the United States, and Mr. Drake, Q. C., representing the Canadian Government, the remaining British schooners can not be sold until the expiration of three months from the 11th of January next, and then only by the district attorney giving the owners ninety days' notice.

APPLICATION GRANTED.

In the cases of the schooners *Lily L.*, *W. P. Sayward*, *Annie*, *Allie J. Alger*, *Alpha*, *Kate* and *Anna*, and *Sylvia Handy*, an application made by Attorney W. Clark, counsel for the owners, for leave to appeal to the Supreme Court of the United States was granted.

A motion presented by the same attorney for a stay of proceedings for three months in the cases of the *W. P. Sayward*, *Alpha*, *Kate* and *Anna*, and the *Sylvia Handy*, was refused by the court on the ground that the owners had had ample time in which to prepare for their appeals, and it was entirely their own fault if they had not done so.

PART IV.

PRIOR CORRESPONDENCE RELATIVE TO BEHRING SEA, ALASKA, THE SEA OF OKHOTSK, AND THE RUSSIAN UKASE OF 1821.

No. 164.*

Mr. Poletica to Mr. Adams.

[Translation.]

WASHINGTON, *January 30 [February 11], 1822.*

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, in consequence of orders which have lately reached him, hastens herewith to transmit to Mr. Adams, Secretary of State in the Department of Foreign Affairs, a printed copy of the regulations adopted by the Russian-American Company, and sanctioned by His Imperial Majesty, relative to foreign commerce in the waters bordering the establishments of the said company on the northwest coast of America.

The undersigned conceives it to be, moreover, his duty to inform Mr. Adams that the Imperial Government, in adopting the regulation, supposes that a foreign ship, which shall have sailed from a European port after the 1st of March, 1822, or from one of the ports of the United States after the 1st of July of the same year, can not lawfully pretend ignorance of these new measures.

The undersigned, etc.,

PIERRE DE POLETICA.

[Inclosure 1.]

Edict of His Imperial Majesty, Autocrat of all the Russias.

The directing senate maketh known unto all men:

Whereas in an edict of His Imperial Majesty, issued to the directing senate on the 4th day of September, and signed by His Majesty's own hand, it is thus expressed:

"Observing, from reports submitted to us, that the trade of our subjects on the Aleutian Islands and on the northwest coast of America, appertaining unto Russia, is subject, because of secret and illicit traffic, to oppression and impediments; and finding that the principal cause of these difficulties is the want of rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile Islands, we have deemed it necessary to determine these communications by specific regulations, which are hereto attached.

* Nos. 164 to 173, inclusive, are here reprinted from "American State Papers, Foreign Relations."

"In forwarding these regulations to the directing senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution."

COUNT D. GURIEF,
Minister of Finances.

It is therefore decreed by the directing senate that His Imperial Majesty's edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

[The original is signed by the directing senate.]

Printed at St. Petersburg. In the senate, September 7, 1821.

[On the original is written, in the handwriting of His Imperial Majesty, thus:]
Be it accordingly,

ALEXANDER.

KAMENNOY OSTROFF, September 4, 1821.

[Inclosure II.]

Rules established for the limits of navigation and order of communication along the coast of the Eastern Siberia, the northwestern coast of America, and the Aleutian, Kurile, and other islands.

SEC. 1. The pursuits of commerce, whaling, and fishing, and of all other industry, on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Behring Strait to the fifty-first degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Strait to the south cape of the island of Urup, viz, to 45° 50' northern latitude, are exclusively granted to Russian subjects.

SEC. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than a hundred Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

SEC. 3. An exception to this rule is to be made in favor of vessels carried thither by heavy gales, or real want of provisions, and unable to make any other shores but such as belong to Russia; in these cases they are obliged to produce convincing proofs of actual reason for such an exception. Ships of friendly governments, merely on discoveries, are likewise exempt from the foregoing rule (section 2). In this case, however, they must previously be provided with passports from the Russian minister of the navy.

* * * * *

No. 165.

Mr. Adams to Mr. Poletica.

DEPARTMENT OF STATE,
Washington, February 25, 1822.

SIR: I have the honor of receiving your note of the 11th instant, inclosing a printed copy of the regulations adopted by the Russian American Company, and sanctioned by His Imperial Majesty, relating to the commerce of foreigners in the waters bordering on the establishments of that company upon the northwest coast of America.

I am directed by the President of the United States to inform you that he has seen with surprise, in this edict, the assertion of a territorial claim on the part of Russia, extending to the fifty-first degree of north latitude on this continent, and a regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within 100 Italian miles of the shores to which that claim is made to apply. The relations of

the United States with His Imperial Majesty have always been of the most friendly character; and it is the earnest desire of this Government to preserve them in that state. It was expected, before any act which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by treaty between the parties. To exclude the vessels of our citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.

This ordinance affects so deeply the rights of the United States and of their citizens that I am instructed to inquire whether you are authorized to give explanations of the grounds of right, upon principles generally recognized by the laws and usages of nations, which can warrant the claims and regulations contained in it.

I avail, etc.,

JOHN QUINCY ADAMS.

No. 166.

Mr. Poletica to Mr. Adams.

WASHINGTON, *February 28, 1822.*

Mr. Poletica replied on the 28th of the same month, and after giving a summary of historical incidents which seemed to him to establish the title of Russia to the territories in question by first discovery, said:

"I shall be more succinct, sir, in the exposition of the motives which determined the Imperial Government to prohibit foreign vessels from approaching the northwest coast of America belonging to Russia within the distance of at least 100 Italian miles. This measure, however severe it may at first appear, is, after all, but a measure of prevention. It is exclusively directed against the culpable enterprises of foreign adventurers, who, not content with exercising upon the coasts above mentioned an illicit trade very prejudicial to the rights reserved entirely to the Russian American Company, take upon them besides to furnish arms and ammunition to the natives in the Russian possessions in America, exciting them likewise in every manner to resist and revolt against the authorities there established.

"The American Government doubtless recollects that the irregular conduct of these adventurers, the majority of whom was composed of American citizens, has been the object of the most pressing remonstrances on the part of Russia to the Federal Government from the time that diplomatic missions were organized between the countries. These remonstrances, repeated at different times, remain constantly without effect, and the inconveniences to which they ought to bring a remedy continue to increase. * * *

"I ought, in the last place, to request you to consider, sir, that the Russian possessions in the Pacific Ocean extend, on the northwest coast of America, from Behring's Strait to the fifty-first degree of north latitude, and on the opposite side of Asia and the islands adjacent, from the same strait to the forty-fifth degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to *shut seas* (mers fermées), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities."

No. 167.

*Mr. Adams to Mr. Poletica.*DEPARTMENT OF STATE,
Washington, March 30, 1822.

SIR: I have had the honor of receiving your letter of the 28th ultimo, which has been submitted to the consideration of the President of the United States.

From the deduction which it contains of the grounds upon which articles of regulation of the Russian-American Company have now, for the first time, extended the claim of Russia on the northwest coast of America to the fifty-first degree of north latitude, its only foundation appears to be the existence of the small settlement of Novo Archangelsk, situated, not on the American continent, but upon a small island in latitude 57°; and the principle upon which you state that this claim is now advanced is, that the fifty-first degree is equidistant from the settlement of Novo Archangelsk and the establishment of the United States at the mouth of the Columbia River. But, from the same statement, it appears that, in the year 1799, the limits prescribed by the Emperor Paul to the Russian-American Company were fixed at the fifty-fifth degree of latitude, and that, in assuming now the latitude 57°, a new pretension is asserted, to which no settlement made since the year 1799 has given the color of a sanction.

This pretension is to be considered not only with reference to the question of territorial right, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than 90° of longitude, or 4,000 miles.

As little can the United States accede to the justice of the reason assigned for the prohibition above mentioned. The right of the citizens of the United States to hold commerce with the aboriginal natives of the northwest coast of America, without the territorial jurisdiction of other nations, even in arms and munitions of war, is as clear and indisputable as that of navigating the seas. That right has never been exercised in a spirit unfriendly to Russia; and although general complaints have occasionally been made on the subject of this commerce by some of your predecessors, no specific ground of charge has ever been alleged by them of any transaction in it which the United States were, by the ordinary laws and usages of nations, bound either to restrain or to punish. Had any such charge been made, it would have received the most pointed attention of this Government, with the sincerest and firmest disposition to perform every act and obligation of justice to yours which could have been required. I am commanded by the President of the United States to assure you that this disposition will continue to be entertained, together with the earnest desire that the harmonious relations between the two countries may be preserved.

Relying upon the assurance in your note of similar dispositions reciprocally entertained by His Imperial Majesty towards the United States, the President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

I am, etc.,

JOHN QUINCY ADAMS.

No. 168.

Mr. Poletica to Mr. Adams.

WASHINGTON, April 2, 1822.

Mr. Poletica replied on the 2d of April following, and after again endeavoring to prove the title of Russia to the northwest coast of America from Behring Straits to the fifty-first degree of north latitude, said:

"In the same manner the great extent of the Pacific Ocean at the fifty-first degree of latitude can not invalidate the right which Russia may have of considering that part of the ocean as close. But as the Imperial Government has not thought fit to take advantage of that right, all further discussion on this subject would be idle.

"As to the right claimed for the citizens of the United States of trading with the natives of the country of the northwest coast of America, without the limits of the jurisdiction belonging to Russia, the Imperial Government will not certainly think of limiting it, and still less of attacking it there. But I can not dissemble, sir, that this same trade beyond the fifty-first degree will meet with difficulties and inconveniences, for which the American owners will only have to accuse their own imprudence after the publicity which has been given to the measures taken by the Imperial Government for maintaining the rights of the Russian-American Company in their absolute integrity.

"I shall not finish this letter without repeating to you, sir, the very positive assurance which I have already had the honor once of expressing to you that in every case where the American Government shall judge it necessary to make explanations to that of the Emperor, the President of the United States may rest assured that these explanations will always be attended to by the Emperor, my august sovereign, with the most friendly, and consequently the most conciliatory, dispositions."

No. 169.

Baron Tuyl to Mr. Adams.

[Translation.]

WASHINGTON, April 12 (24), 1823.

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias near the United States of America, has had the honor to express to Mr. Adams, Secretary of State, the desire of the Emperor, his master, who is ever animated by

a sincere friendship towards the United States, to see the discussions that have arisen between the cabinets of St. Petersburg and Washington, upon some provisions contained in the ukase of the 4th (16th) of September, 1821, relative to the Russian possessions on the northwest coast of America, terminated by means of friendly negotiation.

These views of His Imperial Majesty coincide with the wish expressed some time since on the part of the United States in regard to a settlement of limits on the said coast.

The ministry of the Emperor having induced the British ministry to furnish Sir Charles Bagot, ambassador of His Majesty the King of England near His Imperial Majesty, with full powers necessary for the negotiation about to be set on foot for reconciling the difficulties existing between the two courts on the subject of the northwest coast, the English Government is desirous of acceding to that invitation.

The undersigned has been directed to communicate to Mr. Adams, Secretary of State, in the name of his august master, and as an additional proof of the sentiments entertained by His Imperial Majesty towards the President of the United States and the American Government, the expression of his desire that Mr. Middleton be also furnished with the necessary powers to terminate with the Imperial cabinet, by an arrangement founded on the principle of mutual convenience, all the differences that have arisen between Russia and the United States in consequence of the law published September 4 (16), 1821.

The undersigned thinks he may hope that the Cabinet of Washington will, with pleasure, accede to a proposition tending to facilitate the completion of an arrangement based upon sentiments of mutual good will and of a nature to secure the interests of both countries.

He profits, etc.,

TUYLL.

No. 170.

Mr. Adams to Baron Tuyl.

DEPARTMENT OF STATE,
Washington, May 7, 1823.

The undersigned, Secretary of State of the United States, has submitted to the consideration of the President the note which he had the honor of receiving from the Baron de Tuyl, envoy extraordinary and minister plenipotentiary from His Imperial Majesty the Emperor of all the Russias, dated the 12th (24th) of the last month.

The undersigned has been directed, in answer to that note, to assure the Baron de Tuyl of the warm satisfaction with which the President receives and appreciates the friendly dispositions of His Imperial Majesty toward the United States; dispositions which it has been, and is, the earnest desire of the American Government to meet with corresponding returns, and which have been long cemented by the invariable friendship and cordiality which have subsisted between the United States and His Imperial Majesty.

Penetrated with these sentiments, and anxiously seeking to promote their perpetuation, the President readily accedes to the proposal that the minister of the United States at the court of His Imperial Majesty should be furnished with powers for negotiating, upon principles adapted to those sentiments, the adjustment of the interests and rights which

have been brought into collision upon the northwest coast of America, and which have heretofore formed a subject of correspondence between the two Governments, as well at Washington as at St. Petersburg.

The undersigned is further commanded to add that, in pursuing, for the adjustment of the interests in question, this course, equally congenial to the friendly feelings of this nation towards Russia and to their reliance upon the justice and magnanimity of his Imperial Majesty, the President of the United States confides that the arrangements of the cabinet of St. Petersburg will have suspended the possibility of any consequences resulting from the ukase to which the Baron de Tuyl's note refers which could affect the just rights and the lawful commerce of the United States during the amicable discussion of the subject between the Governments respectively interested in it.

The undersigned, etc.,

JOHN QUINCY ADAMS.

No. 171.

Mr. Adams to Mr. Middleton.

No. 16.]

DEPARTMENT OF STATE,
Washington, July 22, 1823.

SIR: I have the honor of inclosing herewith copies of a note from Baron de Tuyl, the Russian minister, recently arrived, proposing, on the part of His Majesty the Emperor of Russia, that a power should be transmitted to you to enter upon a negotiation with the ministers of his Government concerning the differences which have arisen from the Imperial ukase of 4th (16th) September, 1821, relative to the northwest coast of America, and of the answer from this Department acceding to this proposal. A full power is accordingly inclosed, and you will consider this letter as communicating to you the President's instructions for the conduct of the negotiation.

From the tenor of the ukase, the pretensions of the Imperial Government extend to an exclusive territorial jurisdiction from the forty-fifth degree of north latitude, on the Asiatic coast, to the latitude of fifty-one north on the western coast of the American continent; and they assume the right of interdicting the navigation and the fishery of all other nations to the extent of 100 miles from the whole of that coast.

The United States can admit no part of these claims. Their right of navigation and of fishing is perfect, and has been in constant exercise from the earliest times, after the peace of 1783, throughout the whole extent of the Southern Ocean, subject only to the ordinary exceptions and exclusions of the territorial jurisdictions, which, so far as Russian rights are concerned, are confined to certain islands north of the fifty-fifth degree of latitude, and have no existence on the continent of America.

The correspondence between Mr. Poletica and this Department contained no discussion of the principles or of the facts upon which he attempted the justification of the Imperial ukase. This was purposely avoided on our part, under the expectation that the Imperial Government could not fail, upon a review of the measure, to revoke it altogether. It did, however, excite much public animadversion in this country, as the ukase itself had already done in England. I inclose herewith the *North American Review* for October, 1822, No. 37, which contains an

article (p. 370) written by a person fully master of the subject; and for the view of it taken in England I refer you to the fifty-second number of the *Quarterly Review*, the article upon Lieutenant Kotzebue's voyages. From the article in the *North American Review* it will be seen that the rights of discovery, of occupancy, and of uncontested possession, alleged by Mr. Poletica, are all without foundation in fact. * * *

The right of the United States from the forty-second to the forty-ninth parallel of latitude on the Pacific Ocean we consider as unquestionable, being founded, first, on the acquisition, by the treaty of February 22, 1819, of all the rights of Spain; second, by the discovery of the Columbia River, first from sea, at its mouth, and then by land, by Lewis and Clarke; and third, by the settlement at its mouth in 1811. This territory is to the United States of an importance which no possession in North America can be to any European nation, not only as it is but the continuity of their possessions from the Atlantic to the Pacific Ocean, but as it offers their inhabitants the means of establishing hereafter water communications from the one to the other.

It is not conceivable that any possession upon the continent of North America should be of use or importance to Russia for any other purpose than that of traffic with the natives. This was, in fact, the inducement to the formation of the Russian American Company and to the charter granted them by the Emperor Paul. It was the inducement to the ukase of the Emperor Alexander. By offering free and equal access for a term of years to navigation and intercourse with the natives to Russia, within the limits to which our claims are indisputable, we concede much more than we obtain. It is not to be doubted that, long before the expiration of that time, our settlement at the mouth of the Columbia River will become so considerable as to offer means of useful commercial intercourse with the Russian settlements on the islands of the northwest coast.

With regard to the territorial claim, separate from the right of traffic with the natives and from any system of colonial exclusions, we are willing to agree to the boundary line within which the Emperor Paul had granted exclusive privileges to the Russian-American Company, that is to say, latitude 55°.

If the Russian Government apprehend serious inconvenience from the illicit traffic of foreigners with their settlements on the northwest coast, it may be effectually guarded against by stipulations similar to those, a draft of which is herewith subjoined, and to which you are authorized, on the part of the United States, to agree. * * *

I am, etc.,

JOHN QUINCY ADAMS.

[Inclosure.]

Draft of treaty between the United States and Russia.

ART. I. In order to strengthen the bonds of friendship, and to preserve in future a perfect harmony and good understanding between the contracting parties, it is agreed that their respective citizens and subjects shall not be disturbed or molested, either in navigating or in carrying on their fisheries in the Pacific Ocean or in the South Seas, or in landing on the coasts of those seas, in places not already occupied, for the purpose of carrying on their commerce with the natives of the country; subject, nevertheless, to the restrictions and provisions specified in the two following articles.

ART. II. To the end that the navigation and fishery of the citizens and subjects of the contracting parties, respectively, in the Pacific Ocean or in the South Seas, may

not be made a pretext for illicit trade with their respective settlements, it is agreed that the citizens of the United States shall not land on any part of the coast actually occupied by Russian settlements, unless by permission of the governor or commander thereof, and that Russian subjects shall, in like manner, be interdicted from landing without permission at any settlement of the United States on the said northwest coast.

ART. III. It is agreed that no settlement shall be made hereafter on the northwest coast of America by citizens of the United States or under their authority, north, nor by Russian subjects, or under the authority of Russia, south of the fifty-fifth degree of north latitude.

No. 172.

Mr. Adams to Mr. Rush.

DEPARTMENT OF STATE,
Washington, July 22, 1823.

No. 70.]

SIR: Among the subjects of negotiation with Great Britain which are pressing upon the attention of this Government is the present condition of the northwest coast of this continent. This interest is connected, in a manner becoming from day to day more important, with our territorial rights; with the whole system of our intercourse with the Indian tribes; with the boundary relations between us and the British North American dominions; with the fur trade; the fisheries in the Pacific Ocean; the commerce with the Sandwich Islands and China; with our boundary upon Mexico; and, lastly, with our political standing and intercourse with the Russian Empire. * * *

By the ukase of the Emperor Alexander, of the 4th (16th) of September, 1821, an exclusive territorial right on the northwest coast of America is asserted as belonging to Russia, and as extending from the northern extremity of the continent to latitude 51°, and the navigation and fishery of all other nations are interdicted by the same ukase to the extent of 100 Italian miles from the coast.

When Mr. Poletica, the late Russian minister here, was called upon to set forth the grounds of right conformable to the laws of nations which authorized the issuing of this decree, he answered in his letters of February 28 and April 2, 1822, by alleging first discovery, occupancy, and uninterrupted possession. * * *

The United States and Great Britain have both protested against the Russian imperial ukase of September 4 (16), 1821.

At the proposal of the Russian Government a full power and instructions are now transmitted to Mr. Middleton for the adjustment, by amicable negotiation, of the conflicting claims of the parties on this subject.

We have been informed by the Baron de Tuyl that a similar authority has been given on the part of the British Government to Sir Charles Bagot. * * *

The principles settled by the Nootka Sound convention of October 28, 1790, were—

(1) That the rights of fishery in the South Seas, of trading with the natives of the northwest coast of America, and of making settlements on the coast itself for the purposes of that trade, north of the actual settlements of Spain, were common to all the European nations, and of course to the United States.

(2) That so far as the actual settlements of Spain had extended she possessed the exclusive rights, territorial and of navigation and fishery, extending to the distance of 10 miles from the coasts so actually occupied.

(3) That on the coasts of South America, and the adjacent islands south of the parts already occupied by Spain, no settlement should thereafter be made either by British or Spanish subjects, but on both sides should be retained the liberty of landing and of erecting temporary buildings for the purposes of the fishery. These rights were, also, of course enjoyed by the people of the United States.

The exclusive rights of Spain to any part of the American continents have ceased. That portion of the convention, therefore, which recognizes the exclusive colonial right of Spain on these continents, though confirmed, as between Great Britain and Spain, by the first additional article to the treaty of the 5th of July, 1814, has been extinguished by the fact of the independence of the South American nation and of Mexico. Those independent nations will possess the rights incident to that condition, and their territories will, of course, be subject to no exclusive right of navigation in their vicinity, or of access to them by any foreign nation. * * *

The right of carrying on trade with the natives throughout the northwest coast they (the United States) can not renounce. With the Russian settlements at Kodiak, or at New Archangel, they may fairly claim the advantage of a free trade, having so long enjoyed it unmolested, and because it has been and would continue to be as advantageous at least to those settlements as to them. But they will not contest the right of Russia to prohibit the traffic, as strictly confined to the Russian settlement itself, and not extending to the original natives of the coast. * * *

I am, etc.,

JOHN QUINCY ADAMS.

No. 173.

Mr. Middleton to Mr. Adams.

In Mr. Middleton's dispatch No. 35, of the 19th of April, 1824, are inclosed minutes of the conferences that preceded the signature of the treaty.

The first conference took place on the 9th of the preceding February, and Mr. Middleton submitted the following draught of a convention:

"ART. I. In order to strengthen the bonds of friendship and to preserve in future a perfect harmony and good understanding between the high contracting parties, it is agreed that their respective citizens and subjects shall not be disturbed or molested either in navigating or in carrying on their fisheries in any part of the great ocean vulgarly called the Pacific or South Sea, or in landing on the coasts thereof in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, subject, nevertheless, to the restrictions and provisions specified in the following articles.

"ART. II. To the end that the navigation and fisheries in the great ocean carried on by citizens and subjects of the high contracting parties may not be made a pretext for illicit trade with their respective settlements, it is agreed that the citizens of the United States shall not land on any part of the coast actually occupied by Russian settlements, unless by permission of the governor or commandant thereof; and that Russian subjects shall, in like manner, be interdicted from landing without permission at any settlement of the United States on the northwest coast.

"ART. III. It is further agreed that no settlement shall be made hereafter on the northwest coast of America, or on any of the islands adjacent thereto, north of the fifty-fifth degree of north latitude, by citizens of the United States, or under their authority; nor by Russian subjects, or under the authority of Russia, south of the same parallel of latitude."

At the second conference, which was on the 20th of February, Count Nesselrode, who was accompanied by Mr. Poletica, gave Mr. Middleton the following counter-draught:

[Translation.]

"ART. I. To cement the bonds of amity, and to secure, for the future, a good understanding and a perfect concord between the high contracting powers, it is agreed that, in any part of the great ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already be occupied, for the purpose of trading with the natives; saving, always, the restrictions and conditions determined by the following articles.

"ART. II. With the view of preventing the rights of navigation and of fishing, exercised upon the great ocean by the citizens and subjects of the high contracting powers, from becoming the pretext for an illicit trade with their respective establishments, it is agreed that the citizens of the United States shall not resort to any part of the coasts already occupied by Russian establishments, *or belonging to Russia, from the line of demarcation pointed out in the article below*, without the permission of the governor or commander of said establishments; and that reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast, *from the same line of demarcation*.

"ART. III. It is, moreover, agreed that, in the respective possessions of the two high powers on the northwest coast of America, or in any of the adjacent islands, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishments to the north of 54° 40' of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, to the south of the same parallel.

"[With admission of American vessels to New Archangel.]"

As to this counter-draught, Mr. Middleton's minutes of the second conference contain the following:

"I observed that the insertion in the second article was utterly inadmissible, as repugnant to the stipulations of the former article, and that instead of the admission of American vessels solely to New Archangel, in the third article, I should propose the commercial principle adopted by the United States and England upon the same coast (indiscriminate admission, etc., for a limited period). That I must now frankly tell them that my instructions required that I should obtain two points as necessary conditions to the third object contemplated by the *projet* of convention: First, the revocation, either spontaneous or by convention, of the maritime provisions of the ukase of September 4 (16), 1821; secondly, the adoption of the commercial principle (or something similar) agreed upon between the United States and Great Britain, in their convention of 1818, in relation to these coasts; thirdly, that, these preliminaries being settled, a territorial delimitation for settlements at 55° might be agreed upon.

"Upon this Mr. Poletica assured me, with a strong asseveration, that he would never be brought to sign an instrument containing the principle of free admission for our ships to their coasts, whatever the count might think proper to do. He continued to argue warmly against anything of the kind. I replied somewhat at length, and concluded by saying that unless he could be brought to change his mind upon this point, it was more than probable we should be able to do nothing. Russia must then be content to keep her ukase, and other nations would only have to see what means they may possess of carrying on the northwest trade in spite of it. The count took no share in this *a-parte* discussion, and when it concluded I told him that I should take his *contre-projet* home with me to consider it and make such further propositions as reflection should suggest. We agreed to meet again in three days."

At the fourth conference, which was on the 8th of March, Mr. Middleton submitted to Count Nesselrode the following paper:

[Translation.]

"The dominion can not be acquired but by a real occupation and possession, and an intention (*animus*) to establish it is by no means sufficient.

"Now, it is clear, according to the facts established, that neither Russia nor any other European power has the right of dominion upon the continent of America between the fiftieth and sixtieth degrees of north latitude.

"Still less has she the dominion of the adjacent maritime territory, or of the sea which washes these coasts, a dominion which is only accessory to the territorial dominion.

"Therefore she has not the right of exclusion or of admission on these coasts, nor in these seas, which are free seas.

"The right of navigating all the free seas belongs, by natural law, to every independent nation, and even constitutes an essential part of this independence.

"The United States have exercised navigation in the seas, and commerce upon the coasts above mentioned, from the time of their independence; and they have a perfect right to this navigation and to this commerce, and they can only be deprived of it by their own act or by a convention."

What then transpired at the conference Mr. Middleton's notes relate as follows:

"Having read this with attention, he (Count Nesselrode) exclaimed, 'Well, here is a convention. We must see if 't is not possible to come to an arrangement.' He then stated that there could, however, now remain only one means of accommodating the existing difference. This he would state hypothetically (supposing the possibility of the Emperor's permitting the stipulation of a free trade for ten years to be agreed to). It was a proposition which, perhaps, would be made to me at a future meeting. It would be intended to prohibit the trade in fire-arms and ammunition. He went into a recapitulation of the complaints of Mr. Daschkoff and Count Pahlen, on account of the injuries arising from the fire-arms furnished to the natives by our citizens. I took occasion here to declare that all these proceedings of the Russian Government were founded in erroneous impressions, and arose from their having improperly conceived that they had a right to regulate our commerce upon a coast which, being unoccupied, was free and open to all nations. It was clear that they had no right to demand any regulation of the kind. He replied, they did not now, of course, expect any arrangement which should not be marked by reciprocity. I remarked that any restriction of the kind would be in many respects liable to objections. That the first which presented itself to my mind was, that such a regulation could not be carried into effect without admitting a right of search which was wholly inadmissible in time of peace. He replied, they had no intention of proposing anything of the kind, for that they would be satisfied with the right of making representations to our Government, in case of the infraction of the regulation which should be adopted, by our traders."

What occurred at subsequent conferences is stated in Mr. Middleton's minutes as follows:

"Considerable delay occurred after the conference of the 8th March, occasioned partly, as I understood, by the indisposition of the Emperor,

and partly, too, as I supposed, to give time for consultation with the directors of the Russian American Company. At length, on the morning of the 22d March, Mr. Poletica called upon me and stated that he had now a project to offer on the part of his Government (see paper lettered L) and that he would leave it with me for consideration. Among other things, he observed that the prohibition of a trade in arms and ammunition would be a *sine qua non*, and that the Emperor wished, in views of benevolence, to add thereto all kinds of spirituous liquors. This was confirmed to me by Count Nesselrode's note of 20th March (see paper lettered M). Mr. Poletica stated that Count Nesselrode proposed to receive me on Monday, the 24th instant, at his house at 1 o'clock p. m.

"Accordingly I attended on Monday, the 24th March, and offered the *projet* lettered N. The argument this day turned generally upon the restrictions proposed to be imposed upon the trade. The sale of arms to the savages, whose blind passions are unrestrained by any moral tie, must be equally pernicious to themselves and all who come within their reach. The greatest objection to this prohibition appeared to me to be that the restriction may be converted into a pretext for vexations upon our commerce, if seizure or confiscation were permitted; and, on the other hand, it seemed likely that all other modes of carrying the prohibition into effect would prove nugatory. I had been told, however, that they would be satisfied with its interdiction under such penalties as we might think proper to impose, that in case of infraction they would content themselves with representations to the Government; but that, finally, the measure was a *sine qua non*. In order to meet this proposition, I had drawn up the article as it stands in the *projet*, as, upon the whole, I concluded that our Government will probably consider the proposal as less objectionable than at a former period, from considerations, at least, of reciprocity, now that we have an acknowledged territory upon the western coast, and when, too, it might perhaps be unavailing to attempt to resist the claims of Russia, likely so soon to be fully acknowledged by Great Britain.

"On the 28th Mr. Poletica brought me the *projet* lettered O. It now appeared to me that the latter part of the fourth article, 'that the reciprocal right shall cease,' etc., had still too much the appearance of a substantive stipulation, although I had changed it from an entire article in their *projet* of the 22d of March, so as to stand as an accessory to the preceding stipulation of an open trade. In the fifth article, their expression 'of arbitrary measures' did not appear to me to be sufficiently precise, as it left them at liberty to adopt regulations and to carry them into effect, because it could not be said that such regulations were arbitrary. For these reasons I proposed at our meeting on the 31st that the fourth and fifth articles should stand as set forth in the *projet* lettered P.

"The fourth article became the subject of warm debate during the three meetings upon the 31st of March and the 1st and 2d of April, at the last of which they proposed that I should sign a protocol of the tenor of that lettered Q. This was refused by me as asserting what was evidently untrue, to wit, that the two forms specified therein meant the same thing; but I consented to sign another protocol, of which one of the originals is forwarded herewith, lettered R. The protocol of signature is lettered S, and the convention T.

"Such is the sum and substance of what passed in our conferences, as extracted from the short notes I made directly after each meeting. If it should appear to be meager and desultory, this must be accounted for from the circumstance that we had set out disclaiming all regular

discussion of right or of fact; and if anything approaching to it was resorted to, it was only when I deemed some statement absolutely necessary to support our pretensions; but in general everything of the nature of discussion appeared to be carefully avoided by the adversary."

[Inclosure L in Mr. Middleton's No. 35.—Translation.]

Projet of Russia of March 22.

His Majesty the Emperor of all the Russias, and the Government of the United States of America, wishing to cement the bonds of amity which unite them, and to secure between them the inviolable maintenance of a perfect concord, by means of the present convention, have named as their plenipotentiaries to this effect, to wit: His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert, Count of Nesselrode, &c., and Pierre de Poletica, &c., and the Government of the United States of America, Henry Middleton, esq., &c., who, after having exchanged their full powers, found in good and due form, have agreed upon and signed the following stipulations:

ART. I. It is agreed that in any part of the great ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens and subjects of the high contracting parties shall be neither disturbed nor restrained either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already be occupied for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

ART. II. With a view of preventing the rights of navigation and of fishing, exercised upon the great ocean by the citizens and subjects of the high contracting parties, from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point of the coasts already occupied by Russian establishments, without the permission of the governor or commander of said establishments; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

ART. III. It is moreover agreed that, in the respective possessions of the two high powers upon the northwest coast of America or in any of the adjacent islands, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment to the north of 54° 40' of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, to the south of the same parallel.

ART. IV. It is, nevertheless, understood that the vessels of the two powers, or which belong to their respective citizens or subjects, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks in the possession of Russia and of the United States of America on the northwest coast, for the purpose of fishing and trading with the natives of the country.

ART. V. This reciprocal right of fishing and of trade is only granted for a term of ten years from the date of the signing of the present convention, at the end of which term it shall cease on both sides.

ART. VI. From this time fire-arms, other arms, powder and munitions of war of every kind are always excepted from this same commerce, which the two powers engage not to sell nor allow to be sold to the natives by their respective citizens and subjects, nor by any person who may be under their authority.

ART. VII. The present convention shall be ratified, and the ratifications thereof shall be exchanged at St. Petersburg in the space of —.

In faith whereof the respective plenipotentiaries have signed it and thereto affixed the seal of their arms.

Done at — the — of the year of grace 1824.

[Inclosure M in Mr. Middleton's No. 35.—Translation.]

Count Nesselrode to Mr. Middleton.

ST. PETERSBURG, March 20, 1824.

The undersigned, actual privy counsellor, secretary of state directing the administration of foreign affairs, has the honor to mention to Mr. Middleton, envoy extraordinary and minister plenipotentiary of the United States of America, the desire which the Emperor had of seeing arms, munitions, and spirituous liquors excepted from the articles of which the reciprocal trade might be declared free during ten

years with the natives of the northwest coast of America, by the convention which Russia and the United States are upon the point of concluding.

The undersigned hastens to assure Mr. Middleton, by writing, that the immediate prohibition of the trade in arms and munitions with the natives is a condition to which His Imperial Majesty attaches the highest importance, a condition the absence of which would not permit him to give his assent to the rest of the treaty.

As to the prohibition of the trade in spirituous liquors the Emperor eagerly desires that it should be pronounced, and he does not doubt that Mr. Middleton and the Government of the United States [will] receive in the most favorable manner this wish, dictated by motives of humanity and morality.

The undersigned, etc.,

NESSELRODE.

[Inclosure N in Mr. Middleton's No. 35.—*Translation.*]

Project of the United States of March 24.

His Majesty the Emperor of all the Russias and the President of the United States of America, wishing to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord, by means of the present convention, have named as their plenipotentiaries to this effect, to wit: His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert, Count of Nesselrode, etc., and Pierre de Poletica, etc., and the President of the United States of America, Henry Middleton, a citizen of said States, and their envoy extraordinary and minister plenipotentiary near His Imperial Majesty; who, after having exchanged their full powers, found in good and due form, have agreed upon and signed the following stipulations:

ART. I. It is agreed that in any part of the great ocean, commonly called the Pacific Ocean, or South Sea, the respective citizens and subjects of the high contracting parties shall be neither disturbed nor restrained either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already be occupied for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

ART. II. With the view of preventing the rights of navigation and of fishing, exercised upon the great ocean by the citizens and subjects of the high contracting powers, from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

ART. III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of 54° 40' of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, to the south of the same parallel.

ART. IV. It is, nevertheless, understood that the vessels of the two powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the said coast for the purpose of fishing and of trading with the natives of the country. But the reciprocal right granted by this article shall cease, on both sides, after the term of ten years, to be counted from the signing of the present convention.

ART. V. Fire-arms, other arms, powder, and munitions of war of every kind are always excepted from this same commerce permitted by the preceding article; and the two powers engage, reciprocally, neither to sell, nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It being well understood that, in any case, this restriction shall not be considered to authorize, under the pretext of a contravention of this article, the visit or the detention of vessels, or the seizure of the merchandise, or, in fine, any vexations whatever exercised towards the owners or the crews employed in this commerce; the high contracting powers, reciprocally, reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments due, in case of the contravention of this article by their respective citizens and subjects.

ART. VI. When this convention shall have been duly ratified by His Majesty the Emperor of all the Russias on one part and on the other by the President of the United States, with the advice and consent of the Senate, the ratifications thereof shall be exchanged at Washington in the space of ten months from the date below, or sooner, if possible.

In faith whereof the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at — the — of the year of grace 1824.

[Inclosure O in Mr. Middleton's No. 35.]

Contre projet of Russia of March 28.

This projet is virtually identical with that of the United States of March 24 (Inclosure N), the only change being a verbal one in the second sentence of Article V.

[Inclosure P in Mr. Middleton's No. 35.—Translation.]

Projet of the United States of March 31.

ART. IV. It is, nevertheless, understood that, during a term of ten years, to be counted from the signing of the present convention, the ships of the two powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

ART. V. All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from the commerce permitted by the preceding article; and the two powers engage, reciprocally, neither to sell, nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never serve for a pretext, nor be alleged in any case, to authorize either the search or detention of vessels, or the seizure of the merchandise, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the high contracting powers, reciprocally, reserving to themselves to determine upon the penalties to be incurred and to inflict the punishments due, in case of a contravention of this article by their respective citizens or subjects.

[Inclosure Q in Mr. Middleton's No. 35.—Translation.]

Projet of protocol submitted by the Russian negotiators on April 2, which Mr. Middleton refused to sign.

The undersigned, after having discussed in several conferences a projet of convention proposed for removing all the differences which have arisen between Russia and the United States of America, in consequence of a regulation published by the former of these powers, on the 4th (16th) September, 1821, definitively drew up the different articles of which this convention is composed, added to them their sign manual, and mutually engaged to sign them as they are found annexed to the present protocol.

In drawing up the fourth of these articles, the plenipotentiaries of Russia recollected that they had proposed to the plenipotentiary of the United States to arrange the said article in the following terms:

ART. IV. "It is, nevertheless, understood that the ships of the two powers, or which belong to their citizens or subjects, respectively, may mutually frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the said coast, for the purpose of there fishing and trading with the natives of the country. But the reciprocal right granted by this article shall cease, on both sides, after a term of ten years, to be counted from the signing of the present convention."

The plenipotentiaries of Russia added, that after agreeing to this arrangement, the plenipotentiary of the United States had afterwards invited them to change the ending of this very article, and to agree to it as it is transcribed opposite* observing that this second arrangement, more conformable to the letter of the instructions which he had received, in no way altered the sense of that which had been proposed by the plenipotentiaries of Russia.

The plenipotentiary of the United States having repeated this observation, the article in question was signed with the modification which he had demanded to be there introduced.

*ART. IV.—"It is, nevertheless, understood that during a term of ten years, to be counted from the signing of the present convention, the ships of the two powers, or which belong to their citizens or subjects, respectively, may mutually frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the said coasts, for the purpose of there fishing and trading with the natives of the country."

After which all the other articles were also signed, and it was resolved to proceed to the signature of the convention itself the — following.

Done at St. Petersburg, the —, 1824.

[Inclosure R in Mr. Middleton's No. 35.—Translation.]

Protocol of signature of the articles.

The undersigned, after having discussed in several conferences a projet of a convention proposed for settling all the differences which arose between the United States of America and Russia, in consequence of a regulation published by the latter of these powers on the 4th (16th) September, 1821, definitively drew up the different articles of which this convention is composed, added to them their sign manual, and mutually engaged to sign them as they are found annexed to the present protocol.

In drawing up the 4th of these articles the plenipotentiaries of Russia recollected that they proposed to the plenipotentiary of the United States to arrange the said article in the following terms:

ART. IV. "It is, nevertheless, understood that the ships of the two powers, or which belong to their citizens or subjects, respectively, may mutually frequent, without any hindrance whatever the interior seas, gulfs, harbors, and creeks upon the said coast, for the purpose of there fishing and trading with the natives of the country. But the reciprocal right granted by this article shall cease, on both sides, after a term of ten years, to be counted from the signing of the present convention."

The plenipotentiaries of Russia added that, after agreeing to this arrangement, the plenipotentiary of the United States had afterwards invited them to change the ending of this very article, and agree to it as it is found signed in the convention, observing that this second arrangement, more conformable to the letter of the instructions which he received, is the only one which he thinks himself authorized to sign; but, moreover, that this arrangement does not essentially alter the sense of that which had been proposed by the plenipotentiaries of Russia, because, at the end of the term mentioned, the stipulation ceasing equally by the two arrangements, the reciprocal power of trading granted by that stipulation can not be prolonged beyond the said term but by mutual agreement.

Under these observations the article in question has been signed, with the modification which the plenipotentiary of the United States had demanded to be there introduced.

After which all the other articles were also signed, respectively, and it was resolved to proceed to the signature of the convention itself on the fifth following.

Done at St. Petersburg, April 2 (14), 1824.

HENRY MIDDLETON.
NESSELRODE.
POLETICA.

[Inclosure S in Mr. Middleton's No. 35.—Translation.]

Protocol of signature of the convention.

The undersigned, having engaged by the protocol of their last conference to sign on the 5th April of the present year the convention of which they signed all the articles, assembled this day at two o'clock in the afternoon, at the hotel inhabited by Count Nesselrode, and after having duly collated with the said articles the two copies of the convention which they had caused to be prepared, they have attached to both their respective signatures and the seals of their arms.

Done at St. Petersburg, April 5 (17), 1824.

HENRY MIDDLETON.
NESSELRODE.
P. POLETICA.

[Inclosure T in Mr. Middleton's No. 35.—Translation.]

The convention.

In the name of the Most Holy and Indivisible Trinity.

The President of the United States of America and His Majesty, the Emperor of all the Russias, wishing to cement the bonds amity which unite them, and to secure of

between them the invariable maintenance of a perfect concord, by means of the present convention, have named as their plenipotentiaries to this effect, to wit:

The President of the United States of America, Henry Middleton, a citizen of said States, and their Envoy Extraordinary and Minister Plenipotentiary near his Imperial Majesty; and His Majesty the Emperor of all the Russias, his beloved and faithful Charles Robert Count of Nesselrode, actual Privy Counsellor, Member of the Council of State, Secretary of State directing the administration of Foreign Affairs, actual chamberlain, Knight of the Order of St. Alexander Nevsky, Grand Cross of the Order of St. Wladimir of the first class, Knight of that of the White Eagle of Poland, Grand Cross of the Order of St. Stephen of Hungary, Knight of the Orders of the Holy Ghost and of St. Michael, and Grand Cross of the Legion of Honor of France, Knight Grand Cross of the Orders of the Black and of the Red Eagle of Prussia, of the Annunciation of Sardinia, of Charles III of Spain, of St. Ferdinand and of Merit of Naples, of the Elephant of Denmark, of the Polar Star of Sweden, of the Crown of Württemberg, of the Guelphs of Hanover, of the Belgic Lion, of Fidelity of Baden, and of St. Constantine of Parma; and Pierre de Poletica, actual counsellor of state, Knight of the order of St. Anne of the first class, and Grand Cross of the Order of St. Wladimir of the second:

Who, after having exchanged their full powers, found in good and due form have agreed upon and signed the following stipulations:

ART. I. It is agreed that, in any part of the great ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles:

ART. II. With a view of preventing the rights of navigation and of fishing exercised upon the great ocean by the citizens and subjects of the high contracting powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

ART. III. It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, south of the same parallel.

ART. IV. It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks, upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

ART. V. All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article; and the two powers engage, reciprocally, neither to sell, nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandise, or, in fine, any measures of constraint whatever towards the merchants or the crews who may carry on this commerce; the high contracting powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article by their respective citizens or subjects.

ART. VI. When this convention shall have been duly ratified by the President of the United States, with the advice and consent of the Senate, on the one part, and, on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington in the space of ten months from the date below, or sooner if possible.

In faith whereof the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at St. Petersburg the 17-5 April, of the year of Grace one thousand eight hundred and twenty-four.

HENRY MIDDLETON.	[L. S.]
Le Comte CHARLES DE NESSELRODE.	[L. S.]
PIERRE DE POLETICA.	[L. S.]

No. 174.

Convention between Great Britain and Russia relative to "the commerce, navigation, and fisheries of their subjects on the Pacific Ocean, as well as the limits of their respective possessions on the northwest coast of America."

[Signed at St. Petersburg, February 28, 1825.—Extract.]

ART. I. It is agreed that the respective subjects of the high contracting parties shall not be troubled or molested, in any part of the ocean, commonly called the Pacific Ocean, either in navigating the same, in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in the following articles.

ART. II. In order to prevent the right of navigation and fishing, exercised upon the ocean by the subjects of the high contracting parties, from becoming the pretext for an illicit commerce, it is agreed that the subjects of His Britannic Majesty shall not land at any place where there may be a Russian establishment, without the permission of the governor or commandant; and, on the other hand, the Russian subjects shall not land, without permission, at any British establishment on the northwest coast.

* * * * *

ART. VI. It is understood that the subjects of His Britannic Majesty, from whatever quarter they may arrive, whether from the ocean, or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course towards the Pacific Ocean, may cross the line of demarcation upon the line of coast described in article 3 of the present convention.

ART. VII. It is also understood, that, for the space of ten years from the signature of the present convention, the vessels of the two powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in article 3 for the purpose of fishing and of trading with the natives.

ART. VIII. The port of Sitka, or Novo Archangelsk, shall be open to the commerce and vessels of British subjects for the space of ten years from the date of the exchange of the ratifications of the present convention. In the event of an extension of this term of ten years being granted to any other power, the like extension shall be granted also to Great Britain.

ART. IX. The above mentioned liberty of commerce shall not apply to the trade in spirituous liquors, in fire-arms, or other arms, gunpowder, or other warlike stores; the high contracting parties reciprocally engaging not to permit the above mentioned articles to be sold or delivered, in any manner whatever, to the natives of the country.

NOTE.—By Article XII of the treaty between Great Britain and Russia signed January 11, 1843, it is stated that "it is understood, that in regard to commerce and navigation in the Russian possessions on the northwest coast of America, the convention concluded at St. Petersburg, on the 28th February, 1825, continues in force."

No. 175.

Baron Krudener to Mr. Dickens.

[Translation.]

WASHINGTON, May 19 (31), 1835.

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, has the honor to address the following communication to Mr. Dickens, who has charge of the Department of Foreign Relations during the absence of the Secretary of State.

The convention concluded between Russia and the United States on the 5th (17th) of April, 1824, regulated various points respecting the commerce and navigation of the vessels of each nation, along the northwest coast of America. The fourth article of this convention grants to American vessels for ten years after the date of the signature thereof the right of frequenting, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks comprised within the limits of the Russian possessions on the aforesaid coast, and especially northward of 54° 40' of north latitude.

This period of ten years expired on the 5th (17th) of April, 1834; notwithstanding which two American captains, Snow and Allen, who were then in the port of Novo Archangelsk, declared their intention to visit the anchoring places on the coast belonging to Russia, as before, on the plea that they had received no notice of the cessation of this privilege from their Government. This declaration induced Captain Baron de Wrangel, governor of the Russian American colonies, to state formally to Captains Snow and Allen, by a circular addressed to them, under date of April 27, that by the terms of the convention of April, 1824, American vessels had no longer the right of landing at their discretion at all the landing places of the said possessions in America.

In consequence of what is here exposed, the ministry of His Majesty the Emperor of all the Russias has ordered the undersigned to call the attention of the American Government to the fact that the fourth article of the treaty of 5th (17th) of April, 1824, by which indefinite and indiscriminate liberty (*une liberté indéfinie et indistincte*) of frequenting the respective possessions of each party on the northwest coast was granted to the vessels of each has expired. The new state of things brought on by the terms of the treaty, since the expiration of the said ten years, not having been sufficiently appreciated by the navigators of the United States, who have latterly frequented the Russian possessions on the northwest coast of North America, it appears to be necessary that the American public should be informed of the actual state of the relations on this subject, and the undersigned has been ordered to invite the Government of the United States to take the most suitable measures with regard to it.

The undersigned, etc.,

B. KRUDENER.

No. 176.

*Mr. Dickens to Baron Krudener.*DEPARTMENT OF STATE,
Washington, June 3, 1835.

The undersigned, Acting Secretary of State, has the honor to acknowledge the receipt of the note addressed to him on the 19th (31st) ultimo, by

Baron Krudener, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, reminding this Government of the expiration of the fourth article of the treaty of 5th (17th) April, 1824, between the United States and Russia, which secured to American and Russian vessels the privilege of frequenting the respective possessions of the two powers on the northwest coast, and suggesting the propriety of the adoption of proper measures to notify this fact to the people of the United States.

The undersigned has the honor to inform Baron Krudener that he will take an early opportunity to submit his communication to the President, and he avails, etc.,

ASBURY DICKINS.

No. 177.

Mr. Forsyth to Baron Krudener.

DEPARTMENT OF STATE,
Washington, July 24, 1833.

SIR: I have the honor to inform you that your note of the 19th (31st) ultimo, calling the attention of this Government to the fact that the fourth article of the convention of April, 1824, between the United States and Russia had expired by its own limitation during the year 1834, and suggesting the propriety of making this event known to the American public, has been laid before the President for his consideration. As, however, the motives which led to and rendered expedient the adoption of that article of the treaty of 1824 exist now in equal force, and as the arrangement has been found mutually beneficial to the interests of the citizens and subjects, respectively, of the contracting parties, without inconvenience to either, I am instructed to apprise you that the President would prefer not to take any active measures to interrupt the commercial intercourse between the United States and the Russian settlements on the northwest coast of America, unless, in your opinion, there is reason to believe that a proposition on the part of this Government for the renewal of the article referred to would not be met in a favorable spirit by the Government of His Imperial Majesty at St. Petersburg.

An early answer to this communication, if you are not aware of any difficulty on the part of your Government in the way of such a negotiation, will enable me, without unnecessary delay, to transmit the requisite instructions on the subject to the diplomatic representative of the United States in Russia.

I pray you, sir, to accept, etc.,

JOHN FORSYTH.

No. 178.

Baron Krudener to Mr. Forsyth.

[Translation.]

PHILADELPHIA, June 29 (July 11), 1835.

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, has received the note of June 24, which was addressed to him by Mr. Forsyth, Secretary of

State of the United States. He would have made it a duty to answer it immediately, had the state of his health permitted.

The undersigned regrets that it is entirely out of his power to give any distinct opinion as to the result which might attend any steps on the part of the Cabinet of the United States to engage the Government of His Imperial Majesty to stipulate a renewal of the fourth article of the treaty of the 5th (17th) of April, 1824, which ceased to be in force last year. It being thus impossible for the undersigned to foresee the intentions of the Emperor, he can only persevere in compliance with the orders transmitted to him by the ministry, and in repeating the demand which formed the object of his note of the 19th (31st) of May. The undersigned is the more obliged to comply with this duty, as the instructions with which he is furnished on this subject are positive, and express no doubt as to the readiness of the American Government to proceed to the publication requested.

The undersigned, etc.,

B. KRUDENER.

No. 179.

Mr. Forsyth to Baron Krudener.

DEPARTMENT OF STATE,
Washington, July 21, 1835.

SIR: I have received your note of the 29th June (11th July), declining to express an opinion as to the probable result of an application on the part of this Government to that of His Imperial Majesty for a renewal of the fourth article of the convention of 1824, between the United States and Russia, and reiterating the request contained in your communication of the 19th (31st) May last, that the fact of the expiration of the term limited in the article referred to should be, in some form, brought into notice, for the information of the American public. I have, in answer, the honor to state that a formal notice from the Government is not deemed necessary. All the citizens of the United States are bound to know existing laws and their rights and obligations under existing treaties. Still, however, as His Imperial Majesty's Government has especially invited the attention of this Government to the subject, an informal notice will be given through the public journals of Baron de Wrangel's warning to the captains of American vessels on the northwest coast of this continent.

I will be very happy to receive from you, as early as practicable, precise information of the measures His Imperial Majesty's Government has adopted, or proposes to adopt, in relation to the subject, as corresponding regulations may be deemed necessary by the United States in regard to Russian subjects in the event of the non-renewal of the treaty stipulation.

I pray you to accept, etc.,

JOHN FORSYTH.

No. 180.

Baron Krudener to Mr. Forstyh.

[Translation.]

NEW YORK, July 14 (26), 1835.

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, has had the honor to receive the note dated July 21, in which Mr. Forsyth, Secretary of State of the United States; in reply to his communication of June 29 (July 11), informs him that the Government of the United States intended to insert in the public newspapers an unofficial notice of the warning given by Baron Wrangel to the captains of American vessels on the northwest coast of this continent respecting the expiration of the fourth article of the treaty of April 5 (17), 1824; expressing also a desire to receive from the undersigned, as soon as possible, precise information with regard to the measures which the Imperial Government has adopted, or may adopt, on this subject, as corresponding regulations with regard to Russian subjects may be considered necessary in case the stipulation of the treaty be not renewed. The undersigned has without delay submitted to his Government the said note of the Secretary of State, and will communicate to him the results as soon as they are received.

The undersigned, etc.,

B. DE KRUDENER.

No. 181.

Mr. Forsyth to Mr. Wilkins.

No. 4.]

DEPARTMENT OF STATE,
Washington, July 30, 1835.

SIR: I transmit to you, inclosed, the copy of a recent correspondence with Baron Krudener, the diplomatic representative of His Majesty the Emperor of Russia at Washington, regarding the fourth article of the convention of April, 1824, between the United States and that Empire. It will be perceived from these papers that the baron has taken occasion to remind this Government of the expiration of the term limited in that article, and to request that a notification of this fact may be given for the information of the American public. An informal notice has been accordingly published in the *Globe* of the 22d instant, of Baron de Wrangel's warning to the captains of certain American vessels trading with the Russian settlements on the northwest coast of America. It will also be seen that, in answer to an inquiry from this Department, Baron Krudener has declined to express an opinion as to the probable result of a proposition to His Imperial Majesty's Government for a renewal of the article referred to.

It therefore becomes necessary, and you are now authorized by the President's direction, to enter immediately upon a negotiation with the Government of His Imperial Majesty, if it should be found willing to entertain the proposition, for the renewal of the stipulations of the fourth article of the convention of the 5th (17th) April, 1824, for an indefinite period, or, if this can not be had, for a term of years.

There is reason to believe that the course pursued by the Captain Baron de Wrangel, governor of the Russian-American colonies, incidentally mentioned in the Baron de Krudener's letter of the 31st May last, has been instigated by the Russian-American Fur Company; and it is not improbable that representations of a character similar to those made to the governor, and from the same source, have been transmitted to St. Petersburg. If prejudices exist of the nature apprehended, and tending to defeat the object now in view, they will be easily discoverable in your intercourse with the Russian minister of foreign affairs, and you will take an early opportunity to discredit them by showing that representations growing out of private interests are always to be received with great caution, and should not be suffered to influence the decision of a question which may be productive of injury to the citizens and subjects, respectively, of the contracting parties.

The motives that prompted the adoption of the fourth article of the treaty of 1824 by the parties to that convention exist now in equal if not superadded force, since it will not be denied that it has been mutually beneficial to the citizens of both, without being inconvenient to either. Serious objections on the part of Russia, therefore, to the renewal of the stipulations contained in it can hardly be anticipated. Should this reasonable expectation, however, be disappointed, it is the wish of the President that you should, without unnecessary delay, obtain from His Imperial Majesty's Government precise information in regard to the measures adopted, or proposed to be adopted, on its part in relation to the admission of American vessels into the harbors, bays, and rivers of the Russian settlements on the northwest coast of this continent, in order that corresponding regulations, if deemed necessary, may be made by this Government.

I am, etc.,

JOHN FORSYTH.

[Inclosure.—Extract from the Globe newspaper of July 22, 1835.]

It will be recollected that a convention was concluded between the United States and Russia in April, 1824, regulating various matters connected with the commerce and navigation of the two nations on the northwest coast of America. By the fourth article it was stipulated that the ships of both nations might, during a term of ten years, frequent without hinderance the interior seas, gulfs, harbors, and creeks of each nation on that coast for the purpose of fishing and trading with the natives of the country. The ten years expired in April, 1834; and we understand that formal notice has been given by the governor of the Russian colonies to the masters of the American ships then trading there that they could no longer claim, under the convention, the right of landing at all the landing places, without distinction, belonging to Russia on that coast. Those interested in the trade will not fail to observe that under the second article of the convention it is necessary for all American vessels resorting to any point on that coast where there is a Russian establishment to obtain the permission of the governor or commander.

No. 182.

Mr. Wilkins to Mr. Forsyth.

No. 14.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 23, 1835.

SIR: In the last dispatch which I had the honor to address to you, on the 26th of September last, I informed you it was likely you would

not again hear from me until after the return of the Emperor and Count Nesselrode to this capital.

His Majesty returned on the 1st instant, having been preceded a few days by his minister of foreign affairs.

Immediately upon receiving from Count Nesselrode the usual written notice of his having resumed the duties of his official station, I addressed him a note and requested him to name a day when I might have the honor of a personal conference. He mentioned the 4th instant. I waited upon him accordingly at the foreign office, and disclosed to him the wishes of the American Government in reference to the removal of the fourth article of the treaty of April, 1824, and held with him such conversation and placed the matter in that light which seemed to me the most proper and in accordance with my instructions. Upon the close of our conversation I handed to him, in writing, a memorandum of the proposal you authorized me to submit. The view in which I placed the matter and the substance of the conversation will appear (and therefore need not be more particularly detailed) by reference to the copies of the notes which I addressed to him immediately after the conference, simply noting two observations which fell from him. * * *

I have, etc.,

WM. WILKINS.

[Inclosure 1 in Mr. Wilkins's No. 14.]

Mr. Wilkins to Count Nesselrode.

ST. PETERSBURG, November 1 (13), 1835.

Notwithstanding his very recent conversation with Count Nesselrode in reference to the proposition of the American Government to renew the expired fourth article of the treaty of April, 1824, the undersigned will embrace the present occasion to repeat what may then have been, in a very brief manner, verbally represented, and to add a few remarks immediately bearing upon that question.

The diplomatic representative of His Imperial Majesty at Washington City having taken occasion to remind the United States of the expiration of the ten years stipulated in the fourth article of the treaty of 1824, and to desire thereon the action of their Chief Magistrate, is indicative of the necessity that the two Governments should, as early as convenient, come to a decision upon the policy hereafter to control their citizens and subjects, respectively, upon the northwest coast. Hence it is that, under express instructions, the undersigned had the honor, immediately upon the return of his excellency Count Nesselrode to the capital, to call his attention to the question, and to submit to him his proposal of October 23 (November 4), of which the undersigned delivered at the time a memorandum in writing.

The motives which influence the Government of the United States in submitting that proposition to the imperial ministry will be found to arise out of a consideration of the following circumstances:

(1) The desire to avoid any difficulty and apprehension of collision between the inhabitants, traders, and fishermen upon that wild coast, so remotely situated, but with very few and widely separated posts of civilization, and the entire country almost so exclusively occupied by savage tribes as to render restraint and proper responsibility to the law well-nigh out of the question with either Government.

(2) The proposed arrangement would render definite and precise the rights and duties of the subjects and citizens of the contracting parties respectively; and would obviate all necessity to resort to a construction of the remaining articles of the treaty of April, 1824, and would likewise avoid any chance of conflicting interpretations of that instrument.

(3) Since the undersigned had the honor, in their personal conference the other day, to be informed by his excellency Count Nesselrode of the arrangement relative to the trade and intercourse upon the northwest coast of America subsisting at present between the Governments of Russia and Great Britain, he has turned to the first and eleventh articles of the commercial treaty of the 6th (18th) of December, 1832, between Russia and the United States, and begs leave to call the attention of the imperial minister to the same articles, who will, upon their perusal, see for himself how far their provisions bear upon the present subject, and whether they may not give rise

to an inquiry which may be rendered unnecessary by an acquiescence in the proposed arrangement.

(4) Touching the especial matter in question, the proposed arrangement would, it is believed, place the three nations—Russia, England, and the United States—upon the same fair footing and upon the same equality in the enjoyment of a community of privileges.

In the personal interview of the 4th instant (N. S.), his excellency Count Nesselrode mentioned two circumstances, to which the undersigned will now refer for a moment. One was the objection entertained by the Imperial Government to all traffic in firearms and spirituous liquors, by American citizens, with the native Indians. To this the undersigned now replies, as he did then very succinctly, that it is believed the treaty of 1824, containing a stipulation against that traffic, immediately put an end to it; that there have been no infractions since its adoption—certainly none complained of in representations to the Government at Washington; that, as a further assurance against infringements upon that humane stipulation, and as an evidence of the sincere desire of his Government to enforce it, the undersigned, immediately after their conference, inclosed to his excellency a copy of a law passed by Congress declaring certain prosecutions and penalties against those who should offend against that provision of the treaty. And the undersigned will, on this point, content himself by adding that the above traffic is now discountenanced and prohibited by the present well known and benevolent course of policy pursued by the American Government towards the wild and uncultivated aborigines of the country.

The other circumstance mentioned by his excellency was that, as the Russian American Fur Company were particularly interested in the decision of the question, he conceived it to be his duty to consult its directors before he could give a final answer.

It is not often that those who enjoy a monopoly under a liberal grant from an indulgent sovereign will be willing even to modify, or permit others to participate in, any portion of their privileges. But, in the present instance, it must be recollected that such a concession is not embraced in the proposition submitted without a fair equivalent; for the privilege to fish and traffic north and south of the latitude of 54° 40' would rest upon the just principles of reciprocity.

Whether any prejudices or individual interests exist having a tendency to disincline His Imperial Majesty to assent to a renewal of the expired article of the treaty of 1824, or how far such prejudices or interests, if they do manifest themselves on the part of individual gentlemen of the first respectability, ought to influence the action of Governments upon a question of general import and effecting national and amicable intercourse, is not for the undersigned alone to determine. It is enough for him to know that the views in 1824, which produced the provision contained in the fourth article, have been tested by experience, and the results being mutually beneficial and convenient prove their propriety.

To justify the presumption that the annual visits of American ships in the prosecution of their adventures upon the northwest coast are sometimes very convenient and must be beneficial to the Russian settlements and ports in that distant and not productive climate, the undersigned takes leave to refer to a contract made within a few days by the Russian American Fur Company with an American citizen for supplies to their agents and ports for the ensuing year.

Should the undersigned, however, be disappointed in the reasonable expectation he has formed, and the Imperial Government be unwilling to entertain the proposal to renew, either indefinitely or for another term of years, the provisions of the article of the treaty referred to, he requests that his excellency Count Nesselrode will do him the favor to inform him in regard to the measures adopted, or proposed to be adopted, on the part of Russia in relation to the admission of American vessels into the harbors, bays, and rivers of the Russian settlements on the northwest coast of the American continent. The happy understanding which prevails between the two Governments, the desire to avoid any casual difference, and the probable necessity for corresponding measures, will readily indicate the motives which prompt this request.

The undersigned can not close this note without repeating, very earnestly, his wish to be put in possession of the answer of the imperial ministry upon the two subjects to which their attention is directed.

The undersigned, etc.,

WM. WILKINS.

[Inclosure 2 in Mr. Wilkins's No. 14.—Translation.]

Count Nesselrode to Mr. Wilkins.

ST. PETERSBURG, November 8, 1835.

The undersigned, as he had the honor to announce, did not fail to submit to the department of finance the subject of the memorandum addressed to him on the 23d

October (4th November) by Mr. Wilkins, envoy extraordinary and minister plenipotentiary of the United States of America, respecting the renewal of the fourth article of the treaty of April, 1824.

The undersigned, as soon as he has obtained the opinion of the proper authorities and received the orders of the Emperor, will immediately communicate to Mr. Wilkins the point of view under which the proposition of his Government is regarded here. He, however, requests Mr. Wilkins to bear in mind that the Imperial Government, in examining this proposition, will lose sight of none of those considerations which should induce it more strongly to cement the amicable relations now existing between the two Governments.

Contenting himself for the present with this answer to the note of Mr. Wilkins of the 1st (13th) of November, the undersigned seizes, etc.,

NESSELRODE.

No. 183.

Mr. Wilkins to Mr. Forsyth.

No. 16.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 11, 1835.

* * * * *

SIR: As I anticipated, when I last wrote, I held with Count Nesselrode, at the foreign office, on Monday last, the 7th instant, a personal conference upon my proposition to renew, either indefinitely or for a term of years, the fourth article of the treaty of April, 1824, and I regret to be compelled to say that, in this effort, at all events for the present, I have been unsuccessful; and I presume the overture will be finally altogether rejected, unless some new and, to me, unforeseen circumstances turn up.

I was well aware that I should have to encounter the decided opposition of the Russian American Fur Company; and in presenting the subject to the vice-chancellor in the various lights in which it struck my mind, I took the ground that it was not a mere interested and selfish question of gain in the traffic upon the northwest coast, but one of a higher character, involving political and national considerations; that whilst I was very willing to admit the more active commercial enterprise and superior shipping of the citizens of the United States, yet this was a question not to be decided by such circumstances, but should turn upon the consideration of our national good will and our amicable and disinterested reciprocal intercourse. * * *

Inasmuch as it seemed to me, by the language of your instructions, that you preferred an indefinite revival of the fourth article, I drew up, to that effect, the form of a treaty, following, as a precedent, the articles of our convention with England of the 6th of August, 1827; which I submitted to, and, at his desire, left in the possession of Count Nesselrode. A copy is herewith transmitted.

At the close of the conference, I requested Count Nesselrode to give me his reply in writing. He acquiesced, and accordingly sent me his official note, dated on the 28th ultimo (old style), and a copy of which I have also the honor to inclose to you.

During our conference, I did not feel myself authorized to call the attention of the Imperial minister to what might, or probably would be, the construction by the United States upon the treaty, with the fourth article extinct; nor what rule of the law of nations would be considered as applicable to the case, and controlling the trade upon a wild and extensive American coast, of a great and open ocean, and still, with the exception of a very few posts at a vast distance from

each other, in the rightful occupancy of the natives, and to which, I believe, the sovereignty of Russia has not, yet, in any treaty or convention, been admitted.

I found, also, upon turning to the treaty of 1825, between Russia and Great Britain, subsequent to writing my note of the 1st (13th) of last month to Count Nesselrode, that my reference therein to the first and eleventh articles of our treaty of the 6th (18th) December, 1832, with this country had no bearing upon and was inapplicable to the question I was then discussing; because the stipulations in their treaty with Great Britain, similar to that contained in our fourth article, were likewise limited to ten years, and had expired in February last. At the interview on Monday last I gave this explanation to Count Nesselrode, who answered my observations by saying that England had not yet applied for a revival of the mutual privilege, and if it should be agreed to with that power, would, of course, and of right by treaty stipulation, be immediately given to the United States.

* * * * *

I am informed that our vessels generally trade between latitudes 50° and 57°, and, occasionally, go still further north. The English are always to be found on the coast, have trading-posts established along it, some of which are south of latitude 54° 40'.

The principal establishments of the Russians are called Sitka and New Archangel, towns situated upon adjacent islands of their respective names, off Norfolk Sound, and in latitude 57° north. Archangel is their chief place, where they keep up a garrison, established in 1800, of about seven hundred men. They have other trading-posts, and two or three small garrisons between Behring's Straits and Sitka. In the winter season, when their people are all collected at the posts upon the coast, they amount to about two thousand. They now build vessels upon the coast, and are increasing the number. Last year they had four or five ships of a burden from 175 to 250 tons, and seven or eight sloops, or smaller vessels, of about 100 tons each.

* * * * *

I have, etc.,

WILLIAM WILKINS.

[Inclosure 1 in Mr. Wilkins's No. 16.]

Draft of a convention renewing indefinitely the fourth article of the treaty of the 5th (17th) of April, 1824, between the United States of America and the Emperor of all the Russias.

ART. I. The provisions of the fourth article of the convention, concluded between the United States of America and His Imperial Majesty the Emperor of all the Russias, on the 5th (17th) of April, 1824, shall be, and they are hereby, renewed and indefinitely extended and continued in force in the same manner as if all the provisions of the said article were herein specially recited.

ART. II. It shall be competent, however, to either of the high contracting parties, in case either should think fit, at any time after the 1st day of January, 1837, on giving due notice of twelve months to the other party, to annul and abrogate this convention, and it shall, in such case, be accordingly entirely annulled and abrogated, after the expiration of the said term of notice.

ART. III. Nothing herein contained shall be construed to impair, or in any manner affect, further than is expressly declared above, any of the provisions or stipulations contained in the aforesaid convention of the 5th (17th) of April, 1824.

[Inclosure 2 in Mr. Wilkins's No. 16.—Translation.]

Count Nesselrode to Mr. Wilkins.

ST. PETERSBURG, November 23, 1835.

The Imperial Government having taken into consideration the proposition made by that of the United States, to renew the fourth article of the convention of 5th (17th) of April, 1824, has been convinced that it was impossible to pronounce upon that subject until information had been received from the places where the said article would be enforced, sufficient to authorize an opinion upon the propriety of such a measure. The Imperial Government can not, however, expect to receive such information until towards next spring, when it may be obtained from some of its officers, whom a long residence on the northwest coast of America has enabled to become well acquainted with the interests and wants of the Russian establishments in those countries, as well as the influence already exercised upon their prosperity by the provisions of the said fourth article.

* * * * *

NESSELRODE.

No. 184.

Mr. Forsyth to Mr. Dallas.

[No. 3.]

DEPARTMENT OF STATE,
Washington, May 4, 1837.

SIR: I regret to have occasion so soon again to advert to a subject connected with the claims of the United States to the right of trading with the natives of the country, and of fishing on the northwest coast of this continent. You will perceive from a perusal of the accompanying papers that the expiration of the fourth article of the convention of 1824 with Russia is not unlikely to be attended with difficulties to our citizens frequenting that coast in pursuit of lawful objects. The leading features of the case, to which your attention is now invited (the particulars of which are more fully detailed in the inclosed copy of a letter dated 24th November last, from J. C. Jones, consul of the United States at the Sandwich Islands, to this Department, and of the protest to which it refers), are as follows: *

The American brig *Loriot*, Blinn, master, sailed from the Port of Oahu on the 22d of August last, bound to the northwest coast of America, for the purpose of procuring provisions, and also Indians to hunt for sea otter on the said coast. It appears that she made the land called Forrester's Island on the 14th of September following, and on the 15th anchored in the harbor of Tuckessan, latitude 54° 55' north, and longitude 132° 30' west; that on the 18th a Russian armed brig arrived in the harbor of Tateskey, latitude 54° 45' north, and longitude 132° 55' west; that on the succeeding day the *Loriot* was boarded by officers from the Russian brig, who ordered the captain of the American vessel to leave the dominions of His Majesty the Emperor of Russia; that Captain Blinn then repaired on board the Russian brig, where the same orders were repeated to him by the commander; that on the 20th and 23d days of the same month these orders were reiterated; that on the 25th the *Loriot* was boarded by two armed boats from the Russian brig, and directed to get under weigh and proceed to the harbor of Tateskey; that on the 27th the armed boats again boarded the American brig, and compelled the captain to proceed to Tateskey; that when off that place,

* For these papers see Senate Document 1, 25th Congress, 3d session.

the weather being threatening, permission was asked of the Russian commander to enter the harbor with the *Loriot*, which request was denied, and Captain Blinn was again ordered to leave the waters of His Imperial Majesty; and that Captain Blinn, being prevented from procuring supplies or necessities for his vessel and from obtaining any Indians (for the purpose of hunting sea otter), was finally obliged to abandon his voyage and return to the Sandwich Islands, where he arrived on the 1st of November of the same year.

The harbors designated in Captain Blinn's protest by the names of Tuckessan and Tateskey are not laid down on any map to which I have referred, and the Department has no knowledge of any Russian establishments having been formed on the northwest coast or adjacent islands, in or about the latitude given for these places. It will, therefore, be proper to ascertain whether there are, in fact, Russian settlements at the points designated, and, if so, you are authorized to make a representation of the whole subject to His Imperial Majesty's Government, complaining of the proceedings in relation to the *Loriot*, which are supposed to have been unauthorizedly instigated by the Russian American Fur Company, and stating that the President can not but regard this act as one of a most unfriendly character, as the United States have had no official or other notice of the existence of such establishments, and have not, although an application has long since been made for them, ever been furnished by the Russian Government with the regulations, consequent on the expiration of the fourth article of the convention, proposed to be applied to American vessels resorting to Russian settlements on that coast.

On the other hand, should there prove to be no Russian establishments at the places mentioned, this outrage on the *Loriot* assumes a still graver aspect. It is a violation of the right of the citizens of the United States, immemorially exercised, and secured to them as well by the law of nations as by the stipulations of the first article of the convention of 1824, to fish in those seas, and to resort to the coast, for the prosecution of their lawful commerce upon points not already occupied. As such, it is the President's wish that you should remonstrate, in an earnest but respectful tone, against this groundless assumption of the Russian Fur Company, and claim from His Imperial Majesty's Government for the owners of the brig *Loriot*, for their losses and for the damages they have sustained, such indemnification as may, on an investigation of the case, be found to be justly due to them.

I am, etc.,

JOHN FORSYTH.

No. 185.

Mr. Dallas to Mr. Forsyth.

No. 6.]

AMERICAN LEGATION,
St. Petersburg, August 16, 1837.

SIR: * * * Among the special duties assigned to me in the instructions from the Department are those relating to the renewal of the fourth article of the treaty of 1824, by your dispatch No. 2, and those arising out of the case of the American brig *Loriot*, Richard D. Blinn master, by your dispatch No. 3. I have been anxious to address myself to the imperial ministry on both these topics, the mutual connec-

tion of which is apparent; but anticipating at the outset much difficulty in accomplishing any purpose opposed by the fur company, prudence impels me to acquire, if possible, with more accuracy than I now possess it, information as to the extent of the Russian establishments on the northwestern coast, and the periods of their respective commencements. My efforts in London to ascertain the positions of the two harbors referred to by Captain Blinn, Tuckessan and Tateskey, and their real character, were abortive, the geographer on whom I principally relied writing to me, the evening before I left the British metropolis, that his searches proved unproductive. An inquiry, to be cautiously conducted, has been set on foot since my arrival here, in the hope that some of the officers of the Russian navy, or some communicative member of the fur company itself, may possess the facts I want, and may enable me to move with less doubt and less danger of mistake. Although from the language of Captain Blinn's protest I am led to believe that Russian establishments have been made at the places where he experienced the interference of which he complains, it would not seem politic to begin the negotiation by an admission which, though it might leave the unfriendliness of the proceeding for comment, must weaken, if not wholly destroy, his claim for redress. As soon as the inquiry instituted shall either succeed or fail, the subject will be opened to Count Nesselrode, and I can not anticipate more than one or two weeks of additional delay.

Permit me, while on this topic, to remark that I can not help foreseeing some perplexity from the construction which will be urged by the Russian ministry for the treaty of April 17, 1824. The first article asserts for both countries general and permanent rights of navigation, fishing, and trading with the natives upon points not occupied by either, north or south of the agreed parallel of latitude, subject to enumerated restrictions, among which is the fourth article, limiting, as it would seem, the exercise of certain of these very rights to a term of ten years. Our negotiator, Mr. Middleton, as he explained in a subsequent dispatch to the Department of State, contemplated no abandonment of their rights either in principle or as a compromise, in the present or future time, but on the contrary repelled a clause proposed to him expressly for that purpose, and regarded the fourth article as enlarging, not restricting, the privileges provided for in the first. My conviction, however, arising from the language of the Russian precautionary record or protocol (which Mr. Middleton rather avoided than rejected), is that Count Nesselrode will deem himself and Mr. Poletica to have attained by this fourth article, though with the use of other words, the substance of the clause to which Mr. Middleton objected, and that he will consider both Governments to have buried all controversy about the rights incident to the prior discovery of savage and unoccupied lands, and to have consented that, at the expiration of the ten years, the United States should be esteemed to possess in full domain the coast and islands to the south, and Russia the coast and islands to the north, of 54° 40' north latitude.

He may ask, and with some plausibility, with what other object the fourth article was framed? It uses no phraseology tantamount to "establishments" or "settlements," or "points already occupied;" but protects from any hindrance for ten years only the power to frequent the interior seas, gulfs, harbors, and creeks upon the coast, for the purpose of fishing and trading with the natives—a power already duly enunciated without limit of time, for both countries, by the first article; and, if it was not intended mutually to yield the power in relation to the

sections divided by the parallel of latitude at the expiration of the term, why disturb the operation of the first article at all? A closer analysis of the negotiation of 1824 may possibly dispel these suggestions; or it will give me pleasure to find my apprehensions removed by the candor of the vice-chancellor; and, at all events, I shall never acquiesce, until instructed to do so by you, in a construction so opposite to the intentions of Mr. Middleton, and so conclusive as to all further claim of the United States.

* * * * *

I have, etc.,

G. M. DALLAS.

No. 186.

Mr. Dallas to Mr. Forsyth.

No. 7.]

AMERICAN LEGATION,
St. Petersburg, September 8, 1837.

SIR: Since my last, dated the 16th of August, 1837, and sent by the courier of the English legation, I have addressed to Count Nesselrode the communication of which a copy is annexed.

* * * * *

I have, etc.,

G. M. DALLAS.

[Inclosure in Mr. Dallas's No. 7.]

Mr. Dallas to Count Nesselrode.

AMERICAN LEGATION, August 15 (27), 1837.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor very respectfully to invite the attention of his excellency the vice-chancellor of the Empire to the following subject, specially given to him in charge as calling for an early submission to the consideration of the Imperial Government.

It will doubtless be remembered that by the perpetual convention of the 5th (17th) of April, 1824, signed by his excellency Count Nesselrode and Mr. Poletica on behalf of Russia, and by Mr. Henry Middleton on behalf of the United States, it was agreed that in any part of the great ocean commonly called the Pacific Ocean, or South Sea, the respective citizens or subjects of the high contracting powers should be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives; that, to prevent the rights of navigation and of fishing, exercised upon the great ocean, from becoming the pretext for an illicit trade, the citizens or subjects of either country should not resort, without permission, to any establishment of the other; and that there should not be formed to the north of 54° 40' of north latitude by the citizens of the United States, nor south of that parallel by Russian subjects, any establishment upon the northwest coast of America. It was declared by the fourth article to be understood that during a term of ten years, counting from the signature of the convention, the ships of both countries respectively might reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the said coast, for the purpose of fishing and trading with the natives.

The permanent powers to navigate, to fish, and to resort to the coasts upon unoccupied points, in order to trade with the natives, thus mutually recognized in a spirit of forecasting friendship, which removes, by explicit assurances, every possible cause of collision or jealousy, and has always characterized the relations and intercourse of the two governments, would seem to be unequivocally distinct and precise. It is to a vague and perverted condition of things, consequent, in a great degree, upon the expiration of the temporary provision of the fourth article, much rather than to any

inimical national policy, that the undersigned imputes the incident, so detrimental to the interest of an American citizen and so incompatible with the rights of his country, which is now submitted to the just and candid consideration of his excellency Count Nesselrode.

[Here follows a statement of the case of the *Loriot*, substantially the same as that given above in Mr. Forsyth's instructions of May 4, 1837.]

The undersigned is unwilling to make to his excellency Count Nesselrode the remarks naturally suggested by this brief statement of facts (whose authenticity he can not doubt), until every reasonable and just opportunity shall have been given to the Russian officers implicated to temper, if possible, their harshness by explanation. His firm confidence in the dispositions heretofore expressed and manifested towards his country precludes his supposing, for one moment, that a proceeding so unfriendly in its nature and circumstances, and so inconsistent with the rights of American citizens, immemorably exercised and secured by the laws of nations, as well as by the stipulations of the first article of the treaty of 1824, was authorized by His Imperial Majesty's Government, or can receive its sanction.

Nevertheless, it is made the duty of the undersigned earnestly and most respectfully to remonstrate against such an unwarranted aggression by persons enjoying the character and using the means of agents in the Russian service, and to claim, as he now does, from His Imperial Majesty's Government, for the losses and damages sustained by the owners of the brig *Loriot*, such indemnification as may, on an investigation of the case, be found justly their due.

In the sincere hope that an early and happy adjustment of this business may arrest its tendency to excite unkindness of feeling between the citizens and subjects of the two countries, the undersigned avails, etc.,

G. M. DALLAS.

No. 187.

Mr. Forsyth to Mr. Dallas.

No. 4.]

DEPARTMENT OF STATE,
Washington, November 3, 1837.

SIR: Your dispatches, Nos. 6 and 7, of the 16th of August and 8th of September, respectively, have been duly received and submitted to the President, by whom I am directed to make the following observations, with reference to your remarks regarding the proper construction of the convention of April, 1824, between the United States and Russia.

The first article of that instrument is only declaratory of a right which the parties to it possessed, under the law of nations, without conventional stipulations, to wit, to navigate and fish in the ocean upon an unoccupied coast, and to resort to such coast for the purpose of trading with the natives.

The second article prohibits the one party from resorting to points occupied by the other without permission.

The third article prevents each party from occupying new points within certain limits.

The fourth article grants permission to either party to frequent, for a specified term, the interior seas, gulfs, harbors, and creeks upon the whole northwest coast of America, without regard to limits or occupation, for the purpose of fishing and of trading with the natives of the country.

The question is as to the meaning and object of this last-mentioned article. Is it to be interpreted as an agreement by either of the parties to abandon, after a specified term, the right to resort to any part of the coast which is unoccupied?

If the fourth article is to be considered as applicable to ports of the coast unoccupied, then it merely provides for the temporary enjoyment

of a privilege which existed in perpetuity, under the law of nations, and which has been expressly declared so to exist by a previous article of the convention. Containing no provision, therefore, not embraced in the preceding article, it would be useless, and of no effect. But the rule in regard to the construction of an instrument, of whatever kind, is, that it shall be so construed, if possible, as that every part may stand.

If the article be construed to include points of the coast already occupied, it then takes effect, thus far, as a temporary exception to a perpetual prohibition, and the only consequence of an expiration of the term to which it is limited would be the immediate and continued operation of the prohibition.

It is still more reasonable to understand it, however, as intended to grant permission to enter interior bays, etc., at the mouths of which there might be establishments, or the shores of which might be in part, but not wholly, occupied by such establishments, thus providing for a case which would otherwise admit of doubt, as without the fourth article it would be questionable whether the bays, etc., described in it belonged to the first or second article.

In no sense can it be understood as implying an acknowledgment on the part of the United States of the right of Russia to the possession of the coast above the latitude of $54^{\circ} 40'$ north. It must be taken in connection with the other articles of the convention, which have, in fact, no reference whatever to the question of the right of possession of the unoccupied parts of the coast. In a spirit of compromise, and to prevent future collisions or difficulties, it was agreed that no new establishments should be formed by the respective parties to the north or south of a certain parallel of latitude, after the conclusion of the agreement; but the question of the right of possession beyond the existing establishments, as it subsisted previously to, or at the time of, the conclusion of the convention, was left untouched. The United States, in agreeing not to form new establishments to the north of latitude $54^{\circ} 40'$ north, made no acknowledgment of the right of Russia to the territory above that line. If such an admission had been made, Russia, by the same construction of the article referred to, must have acknowledged the right of the United States to the territory south of the designated line. But that Russia did not so understand the article is conclusively proved by her having entered into a similar agreement (1825) with Great Britain; and having, in fact, acknowledged in that instrument the right of possession of the same territory by Great Britain. The United States can only be considered as acknowledging the right of Russia to acquire, by actual occupation, a just claim to unoccupied lands above the latitude $54^{\circ} 40'$ north, and even this is mere matter of inference, as the convention of 1824 contains nothing more than a negation of the right of the United States to occupy new points within that limit.

Admitting that this inference is just, and was in contemplation of the parties to the convention, it can not follow that the United States ever intended to abandon the just right acknowledged by the first article to belong to them under the law of nations—to frequent any part of the unoccupied coast of North America for the purpose of fishing or trading with the natives. All that the convention admits is an inference of the right of Russia to acquire possession by settlement north of $54^{\circ} 40'$ north. Until that actual possession is taken, the first article of the convention acknowledges the right of the United States to fish and trade as prior to its negotiation. This is not only the just construction, but it is the one both parties are interested in putting upon the instrument,

as the benefits are equal and mutual, and the object of the convention, to avoid converting the exercise of a common right into a dispute about exclusive privilege, is secured by it.

I am, etc.,

JOHN FORSYTH.

No. 188.

Mr. Dallas to Mr. Forsyth.

No. 15.] LEGATION OF THE UNITED STATES OF AMERICA,
St. Petersburg, March 19, 1838.

SIR: The departure of a courier from the British legation to-morrow enables me to forward to you copies of two notes which have recently passed between Count Nesselrode and myself. They originate in the claim advanced on behalf of the owners of the *Loriot*, agreeably to your instructions of the 4th of May, 1837. Their interest, however, is far more extensive, the demand for private indemnity being merged in a question of national right, and the interpretation of the treaty negotiated in 1824 by my predecessor, Mr. Middleton.

* * * * *

I have, etc.,

G. M. DALLAS.

[Inclosure 1 in Mr. Dallas's No. 15.—Translation.]

Count Nesselrode to Mr. Dallas.

ST. PETERSBURG, February 23, 1838.

Mr. Dallas, envoy extraordinary and minister plenipotentiary of the United States of America, by his note of the 15th (27th) of August last, has thought proper to interpose in behalf of the claims preferred by Richard Blinn, a citizen of the United States, and master of the merchant brig *Loriot*. It appears from the above-mentioned note that in 1833 this vessel, having sailed for the northwest coast of America, arrived at Forrester's Island in latitude of 54° 55' north, with the intention of employing the natives in hunting for sea-otters, and that a few days after his arrival he was ordered off by a brig of the Russian-American Company, without having been able to pursue his project. Mr. Blinn, in virtue of the stipulations of the convention of the 5th (17th) of April, 1824, and especially of the first article of that convention, now prefers complaints against the conduct of the Russian brig towards him, and asks indemnification for the losses sustained in consequence by the proprietors of the *Loriot*.

A claim of this nature, presented, too, by the representative of a power with which Russia is anxious to cultivate the most friendly relations, demanded the most serious attention on the part of the Imperial ministry. The Russian-American Company was accordingly asked, without delay, for minute information respecting all the circumstances connected with the above-mentioned facts, in order that it might be examined with an entire knowledge of the affair. This information has not yet reached the Imperial ministry, as the Russian-American Company has not to this moment received any special report concerning the ordering off of the *Loriot*. It appears, however, from the circumstances as stated in the very note of Mr. Dallas, as well as from a deposition made by one of the officers recently returned from those countries, that in notifying Mr. Richard Blinn to quit the shores where he was, the commander of the Russian brig did nothing more than conform with the instructions given to him at the expiration of the fourth article of the convention.

By examining the stipulations of that convention, with the spirit of equity which marks the character of Mr. Dallas, he will be convinced that the Imperial Government can not acknowledge the justice of the complaints of Mr. Blinn.

It is true, indeed, the first article of the convention of 1824, to which the proprietors of the *Loriot* appeal, secures to the citizens of the United States entire liberty of navigation in the Pacific Ocean, as well as the right of landing without disturbance

upon all points on the northwest coast of America, not already occupied, and to trade with the natives. But this liberty of navigation is subject to certain conditions and restrictions, and one of these restrictions is that stipulated by the fourth article, which has specially limited to the period of ten years the right on the part of the citizens of the United States to frequent, without disturbance, the interior seas, the gulfs, harbors, and creeks north of the latitude of $54^{\circ} 40'$. Now this period had expired more than two years before the *Loriot* anchored in the harbor of Tuckessan. In 1835 the Emperor's minister in the United States had received orders to call the attention of the cabinet at Washington expressly to the circumstance of the expiration of this period; and in consequence of the official note addressed on this subject by Baron de Krudener to the Secretary of State, the Government of the United States caused to be published, in the Washington newspaper, a statement that, as the period of ten years had expired on the 4th of April, 1834, "the governor of the Russian colonies had formally notified the commanders of American vessels in that quarter that they could no longer claim, under the convention, the right of landing without distinction, at all the harbors belonging to Russia on this coast."

If, then, notwithstanding so formal a warning which the Government of the United States had itself aided in conveying to the knowledge of the citizens of the Union, the owners of the *Loriot* ventured upon an expedition to coasts where they had for two years been interdicted from landing it appears that they should attribute only to themselves the ill success of this enterprise, and that the Imperial Government can not admit their claims, nor acknowledge their title to indemnification. In communicating these observations to Mr. Dallas, the undersigned flatters himself with the belief that he will admit the justice of them, and cause them to be viewed in the same light by his Government.

In this hope he prays the envoy to accept, etc.,

NESSELRODE.

[Inclosure 2 in Mr. Dallas's No. 15.]

Mr. Dallas to Count Nesselrode.

St. PETERSBURG, March 5 (17), 1838.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, had the honor to receive the answer of his excellency Count Nesselrode, vice-chancellor of the Empire, dated the 23d February, 1838, to the communication which the undersigned, conformably to the special charge of his Government, addressed to his excellency on the 15th (27th) of August, 1837, in relation to the interference of certain of his Imperial Majesty's armed forces with the merchant brig *Loriot*, owned and commanded by citizens of the United States, and prosecuting a trading voyage to the northwest coast of America.

The remoteness of the regions where the incidents occurred which constitute the foundation of the reclamation on behalf of the parties injured, and the known difficulty of obtaining circumstantial details of any event in that quarter, connected with the assurance of his excellency that the Imperial ministry had given to the subject its serious attention, must have engaged the undersigned to protracted silence, under the conviction that everything which the justice of the case required would ultimately be attained. The note, however, of his excellency, if accurately understood, dispenses with the necessity of additional information, and, adopting the statement of facts derived by the American Government from its citizens, would seem to remove all motive for further delay. An early notice, therefore, of the grounds upon which a recognition of the claim has been declined is impelled alike by a profound respect for the source whence they emanated, and by a sense of the peculiar importance with which they bear upon the relations and interests of the two countries.

The light in which the President of the United States regarded the treatment of Captain Blinn precluded the possibility of his supposing it warranted by the public authorities of Russia. He will hear, with painful surprise, that the subordinate by whom that treatment was inflicted did but obey the instructions with which he had been furnished in consequence of the expiration of the fourth article of the convention of 1824.

It will be recollected that more than two and a half years ago the American Secretary of State, Mr. Forsyth, in a letter of the 21st of July, 1835, addressed to His Imperial Majesty's minister then at Washington, the Baron de Krudener, expressed a wish to receive, as early as practicable, precise information of the measures His Imperial Majesty's Government had adopted or proposed to adopt in relation to the admission of American vessels into the harbors, bays, and rivers of the Russian settlements on the northwest coast of the continent; that this request was reiterated by Mr. Wilkins, the predecessor of the undersigned, in a communication of the 1st of

November, 1835; and that his excellency Count Nesselrode, in answer thereto, referring to the spring of 1836 as the earliest period at which an exact knowledge could be obtained of the measures which the local authorities had adopted, or which it would be necessary to adopt, left no room to doubt that they would then, or as soon as digested, be made known to the American Government. This information, so desirable as a basis for any corresponding measures to which the United States would have been urged by their uniform dispositions of amity towards Russia, as well as by a provident attention to the regularity and security of their own commerce, has never been imparted. Had the purport of the instruction, under which the *Loriot* was violently seized and driven from her voyage, been communicated, it would not have been allowed to work injury and loss to unoffending persons, without at least being first made the object of candid remonstrance, or of precautionary notice. And the President of the United States, unapprized of these regulations, or of the particular points of the northwest coast on which Russian establishments were newly formed, could not but view the abrupt proceeding to which Captain Blinn was subjected as an act, under any aspect, of the most unfriendly character. How far this sentiment will be changed or qualified by unexpectedly finding the slight on the American flag and the armed opposition to American trade to have been ordered, and to be now sanctioned, by the Government of His Imperial Majesty, upon the principles stated, the undersigned can not venture to foresee.

Nor is the "informal notice" (lying before the undersigned) published, at the repeated request of Baron de Krudener, in the *Washington Globe* on the 22d of August, 1835, to which his excellency has referred, susceptible, in the estimation of the undersigned, of a construction which can ascribe to the American Government, or any of its citizens, the knowledge that a voyage like the one contemplated by Captain Blinn was inconsistent with any colonial interdict or general pretension of the Imperial authorities. Far from it. That publication, while characteristic of the frank and confiding readiness with which the American Executive proceeded to execute a wish expressed by a power whose intercourse and relations inspire no distrust, compels, as is conceived, with unfeigned deference, the opposite construction, and imports a recognition of the entire lawfulness of such a voyage. In this spirit, and in this only, was it originally framed, and has ever since, without a question, been understood by the Government and people of the United States. True, it adverts to a notice issued by the governor of the Russian colonies after the expiration of the fourth article of the convention, to the effect that the masters of American vessels could no longer claim the right they enjoyed under that fourth article of landing at all the landing places, without distinction, belonging to Russia on the northwest coast; and it further proceeds to observe to all interested in the trade that, under the second article of the same convention, it is necessary for all American vessels resorting to any point where there is a Russian establishment to obtain the permission of the governor or commander. To the scope of phraseology of this "informal notice" it is believed Baron de Krudener never, orally or in writing, took the slightest exception. It will surely be perceived by his excellency Count Nesselrode to contain no inhibition of trading voyages generally to the northwest coast of America, but, on the contrary, to confine its admonition expressly and precisely to "landing places belonging to Russia," and to "any point on the coast where there is a Russian establishment." Such landing places and such points were alone supposed to be embraced in the notice of Governor Wrangel, and were alone designated in the publication. American voyages to them were no longer as unembarrassed as during the operation of the fourth article of the convention, but to all other points of that vast and wild territory the freedom of American navigation and trade remained unimpaired. It formed no part of the purpose of Captain Blinn to visit, with or without permission, any landing place or point distinguished by Russian occupancy or establishment; and it is therefore submitted that, even supposing him to have read the paragraph adduced, he could at least deduce from it nothing adverse to his voyage.

The decision of the Imperial ministry is stated by his excellency the vice-chancellor to result from the very circumstances set forth in the note of the undersigned, as well as from an affidavit of an officer recently returned from the Russian colonies, and to be founded upon the convention of 1824. As the contents of the affidavit are not mentioned, they are presumed not to affect materially the narrative of the note, and certainly not to introduce any substantive assertion or denial adequate to give the case a totally new character, and to exact, by its own force merely, a judgment which could not be reached without it. The remarks, therefore, which the undersigned proposes to subjoin are necessarily restricted to the admitted allegations on behalf of Captain Blinn in connection with the stipulations of the treaty.

If, in pursuing this course, any injustice be done to the reasoning or views of the Imperial ministry, he will, on the slightest intimation, hasten to rectify it with the frankness which he esteems indispensable to the faithful discharge of his representative duty.

Avoiding a repetition of details heretofore enumerated, as well as their aggravat-

ing features, the leading facts of reclamation are, that the brig *Loriot*, owned and commanded by American citizens, sailed from the Sandwich Islands on the 22d of August, 1836, bound to the northwest coast, to procure provisions and Indians for hunting sea-otter; that, having made Forrester's Island, she anchored in the harbor of Tuckessan, in latitude $54^{\circ} 55'$ north; that no Russian establishment existed in that harbor; that four days afterwards, an armed brig of His Imperial Majesty's navy went into a neighboring harbor, called Tateskey, in latitude $54^{\circ} 45'$ north; that no Russian establishment existed in this latter harbor; that she was boarded by officers from the armed brig, by whom her captain was first ordered to leave the dominions of Russia, and subsequently compelled to get under way and sail for the harbor of Tateskey; that when off the harbor of Tateskey she was, in threatening weather, refused permission to enter, and peremptorily again commanded to quit the waters of His Imperial Majesty; and, finally, that, owing exclusively to this interference of armed force, her voyage was abandoned, and she returned to the Sandwich Islands on the 1st of November. It is this plain and brief story, which the undersigned, by instruction of his Government, has termed inconsistent with the rights of American citizens, immemorably exercised and secured by the laws of nations, as well as by the stipulations of the first article of the convention of 1824, and entitling the parties injured to such indemnification as might on an investigation be found justly their due.

The right of the citizens of the United States to navigate the Pacific Ocean, and their right to trade with the aboriginal natives of the northwest coast of America, without the jurisdiction of other nations, are rights which constituted a part of their independence as soon as they declared it. They are rights founded in the law of nations, enjoyed in common with all other independent sovereignties, and incapable of being abridged or extinguished, except with their own consent. It is unknown to the undersigned that they have voluntarily conceded these rights, or either of them, at any time, through the agency of their Government, by treaty or other form of obligation, in favor of any community. Yet he deduces from the communication of his excellency, after having given it the careful consideration to which every act from such a source lays claim, as the only ground upon which the reclamation on behalf of Captain Blinn is resisted, the proposition that the United States, by the convention of 1824, yielded to His Imperial Majesty the right to hold commerce, on the expiration of ten years, with the aboriginal natives on the northwest coast beyond the degree of $54^{\circ} 40'$ north latitude. This proposition, if established, is unquestionably fatal to the pretensions of the master and owners of the *Loriot*. It bears, however, an aspect so detrimental to the interests of his countrymen, and to their attributes as an independent power, is so inconsistent with the past policy and principles of the American cabinets, and is withal of such minor importance to the prosperity and greatness of Russia, that the undersigned trusts its want of solid foundation will, on further reflection, be apparent and confessed.

The avowed objects of the convention between the United States and His Imperial Majesty, were "to cement the bonds of amity which unite them, and to secure between them the invariable maintenance of a perfect concord." The means of attaining these invaluable ends were embodied in its articles. There is first a mutual and permanent agreement, declaratory of their respective rights, without disturbance or restraint, to navigate and fish in any part of the Pacific Ocean, and to resort to its coasts upon points which may not already have been occupied, in order to trade with the natives. These rights pre-existed in each, and were not fresh liberties resulting from the stipulation. To navigate, to fish, and to coast, as described, were rights of equal certainty, springing from the same source, and attached to the same quality of nationality. Their exercise, however, was subjected to certain restrictions and conditions, to the effect that the citizens and subjects of the contracting sovereignties should not resort to points where establishments existed without obtaining permission; that no future establishments should be formed by one party north, nor by the other party south, of $54^{\circ} 40'$ north latitude; but that, nevertheless, both might for a term of ten years, without regard to whether an establishment existed or not, without obtaining permission, without any hindrance whatever, frequent the interior seas, gulfs, harbors, and creeks, to fish and trade with the natives. This short analysis leaves, on the question at issue, no room for construction.

The view taken by his excellency Count Nesselrode rests upon the provision last referred to, contained in the fourth article of the convention. Of this it is essential to fix the true character. Does its limitation of ten years apply to the broad national right of resorting to unoccupied points of the coast? If it do not, the position taken is untenable. That it does not, would seem to be a conclusion of the gravest, as of the lightest scrutiny.

The renunciation of a prerogative so high and important, if designed would not have been left to mere inference from a disjointed paragraph, but would have been distinctly expressed in immediate connection with its first statement. No motive

can possibly be assigned for permitting an intended abandonment of such a right, formally declared in the first article, to lurk unseen in the varied language of the fourth article.

The power of resorting to unoccupied points of the coast existed in perpetuity by the laws of nations, and is so enunciated in the first article. To declare it afterwards to exist for ten years would be to insert a clause idle and without effect, providing for the temporary enjoyment of what had been previously pronounced permanent. But the interpretation of every instrument must be such as will, if possible, give substance and utility to each of its parts. Applied to points of the coast already occupied, the fourth article takes effect as a temporary exception to the perpetual prohibition of the second article; and the only consequence of the expiration of the term to which it is limited, is the revival and continued operation of that prohibition.

In employing, in the fourth article, the descriptive words "interior seas, gulfs, harbors, and creeks," there is a departure from the comprehensive phraseology of the first article, which is only to be explained by the fact that another idea was to be expressed. Nor is it difficult to understand what was really meant. The bonds of amity and perfect concord, which it was so desirable to cement and invariably maintain, would have been endangered, in peculiar localities, as to which doubts might naturally arise whether they were embraced in the first or the second article. If, however, at their openings, or upon their commanding highlands, or on their shores, an occupied point or establishment existed, it was thought expedient to let them take character from that incident, without any nice measurement of its range or influence, at the expiration of ten years; and, accordingly, the fourth article, avoiding too sudden a check of the actual account of trade, put a limit of time upon the liberty to frequent such places.

The undersigned submits that in no sense can the fourth article be understood as implying an acknowledgment, on the part of the United States, of the right of Russia to the possession of the coast above the latitude of $54^{\circ} 40'$ north. It must, of course, be taken in connection with the other articles, and they have, in fact, no reference whatever to the question of the right of possession of the unoccupied parts. To prevent future collisions it was agreed that no new establishment should be formed by the respective parties to the north or south of the parallel mentioned; but the question of the right of possession beyond the existing establishments, as it stood previous to, or at the time of, the convention, was left untouched.

By agreeing not to form new establishments north of latitude $54^{\circ} 40'$ the United States made no acknowledgment of the right of Russia to the territory above that line. If such an admission had been made, Russia, by the same construction of the article referred to, must have equally acknowledged the right of the United States to the territory south of the parallel. But that Russia did not so understand the article is conclusively proved by her having entered into a similar agreement in her subsequent treaty of 1825, with Great Britain, and having in that instrument acknowledged the right of possession of the same territory by Great Britain.

The United States can only be considered inferentially as having acknowledged the right of Russia to acquire, above the designated meridian, by actual occupation, a just claim to unoccupied lands. Until that actual occupation be taken, the first article of the convention recognizes the American right to navigate, fish, and trade, as prior to its negotiation. Such is esteemed the true construction of the convention; the construction which both nations are interested in affixing, as the benefits are equal and mutual, and the great object is secured of removing the exercise of a common right from the danger of becoming a dispute about exclusive privileges.

At the hazard of proving tedious, the undersigned has thus endeavored to convey to his excellency Count Nesselrode the views suggested by his recent communication.

The Government of the United States is ardent and uniform in its anxiety to cherish with that of Russia the most friendly relations; in the reciprocation of this sentiment the fullest confidence is felt. The citizens and subjects of the two countries, meeting only with feelings of cordiality and for purposes of mutual advantage, are rapidly reaping the fruits of a wise and beneficent international policy. Every year enlarges the sphere of their commercial intercourse, discloses the identity of their interests, and strengthens their ties of amity. In the persuasion that the enlightened councils of His Imperial Majesty will join with the American authorities in every effort consistent with the honor and rights of their respective nations, to rescue this condition of things from all danger of interruption, the undersigned earnestly invites a reconsideration of the ground upon which the claim of the owners of the *Loriot* has been dismissed.

With a consoling hope as to the result, he begs, etc.,

G. M. DALLAS.

No. 189.

Mr. Dallas to Mr. Forsyth.

No. 16.] LEGATION OF THE UNITED STATES OF AMERICA,
St. Petersburg, April 16, 1838.

SIR: On the 21st of last month I received the answer of Count Nesselrode to the proposal made to him in my communication of the 28th of December, 1837, for the renewal of the fourth article of the convention of 1824, and I accompanied my acknowledgment of its receipt with a request for information as to the measures adopted or proposed to be adopted by His Imperial Majesty, respecting the admission of American vessels into the Russian establishments on the northwest coast. Copies of these two documents are annexed to this dispatch. Every act of an official character is preceded by so much deliberation and delay that I may not hope to hear further on this subject for some weeks to come.

The refusal to renew the article was far from unexpected. Although there may be much truth in the statements upon which that refusal is explained, it was foreseen that the grasping policy of the fur company would, in itself, be quite adequate to this result. I am unable to say how far the representation as to the extremely limited character of the American trade under the article be correct, nor how far my countrymen may be implicated in the sale of spirituous liquors, powder, and fire-arms to the natives in violation of the fifth article of the convention; nor whether complaints on the latter subject have or have not been made by the Russian authorities to those of the United States, invoking in designated cases the penalties prescribed by act of Congress. On none of these points do the archives of this legation furnish sources of information.

Nor would it, indeed, seem expedient, under any circumstances, to criticise the alleged motives for declining a revival of the expired stipulation. No consequence could follow but disagreement in relation to details, when the main point is one exclusively of discretion, is obviously decided beyond the probability of change, and that decision is communicated in the most friendly terms.

By the expiration in April, 1834, of the ten years limited in the fourth article of the convention, and by the definitive refusal to renew it, the Imperial Government would seem to attain an important object in their northwestern colonial policy, while the United States forego, in fact, nothing but a series of vague claims calculated only to embroil and complicate the relations of the two countries. My predecessor, Mr. Middleton, by whom the convention was negotiated, conceived the article to be a mutual grant, temporary in its duration, extending to specific and particular privileges, which the traders of neither nation would enjoy as general rights. He regarded the liberty to carry on commerce, without any hindrance whatever, with the natives in the interior seas, gulfs, harbors, and creeks of the Russian settlements, as so much added to the range of our trade beyond its natural boundaries; and he anticipated that, before the lapse of the term proposed, the Russian settlers would perceive the importance of our unshackled intercourse, as a sure and economical means for obtaining supplies, and would ultimately prolong it indefinitely. With these views and impressions, during the pendency of the negotiation, he originated the fourth article, which formed no part either of the *projet* of a treaty sent to him by Mr.

Adams, then Secretary of State, or of the *projet* he submitted to Count Nesselrode at their first conference on the 9th of February, 1824.

The adoption of the article suspended for ten years the necessity of practically discriminating between such places on the northwest coast as were open to a common trade, in consequence of being savage and unoccupied, and those accessible only by permission from a local authority. In other words, there was no immediate call for agreeing and defining what should constitute an "establishment," an "occupancy," or a "settlement," so as to redeem a given spot, with its contiguous territory from a wild state and subject them to an exclusive jurisdiction. During the prescribed period in this particular everything was left as large as before, and here lies, in my opinion, the chief if not the only important incident of the refusal to renew the article. It will become necessary now to have some distinct understanding as to the nature and range of the act of colonizing, which shall permanently vest the dominion in either nation. Without this our commerce in that interesting quarter must be impeded and narrowed and probably soon entirely destroyed by the absurd pretensions of the Russian Fur Company.

The stipulated freedom to trade unmolested within the interior seas, bays, creeks, and harbors of the northwest coast, being regarded, under our construction of the treaty, as solely applicable to occupied places, and having ceased upon the expiration of the ten years; it becomes essential to the safe prosecution of American enterprise and traffic in these remote regions, that we should ascertain, if possible, which of the interior seas, bays, creeks, and harbors fall, by actual Russian settlement, under exclusive Russian dominion. Although the facts be extremely difficult to reach, and a powerful monopoly be interested and at work to misrepresent them, still something may be effected by furnishing to our citizens a rule by which to test the character and extent of any occupation whose existence is alleged as an impediment to an intended voyage. And if we can not spare one or two of our vessels of war to make a thorough examination of the coast, as well as to assert, in defiance of petty obstacles, the national right to trade freely upon unoccupied points, we must be content, however reluctantly, to take just such statements for information as it may please the Fur Company's officers and agents to give. Supposing, then, what I do not expect, that the Imperial Government will abandon the ground it has taken in the case of Captain Blinn, and admit that we still possess the liberty of holding commerce with the natives north of the line of delimitation, I shall be anxious to have your instructions as to the suggested expediency of calling frankly for an enumeration of the points on the coast at which Russian settlements are alleged to exist, and of inviting the adjustment of some definite rule by which the reality of a settlement, and the extent of its adjacent operation, may at any time be peaceably determined. If, however, the position taken in reference to Captain Blinn's claim be adhered to, these inferior inquiries can not be made; for that position, as will be remembered, excludes our commerce, except by Russian permission, from the whole coast beyond the degree 54° 40' north.

I should perhaps feel warranted in pursuing measures for this purpose without delay. The request for information as to the regulations to be enforced in relation to American vessels, made in my last note to Count Nesselrode, may be esteemed a fair preliminary. But I am anxious to know, before proceeding further, whether the decided manner in which I have treated the claim to exclusive dominion, in the affair of the *Loriot*, be approved or not; and whether the right by the laws of nations

to trade with the natives on unoccupied parts of the coast be esteemed so certain and so important that it will be insisted on, even at the hazard of interrupting the amicable relations of the two countries. I wish to shape my progress so as to harmonize in every movement, as nearly as possible, with whichever alternative, inflexibility, or concession the President may esteem the highest and truest policy.

* * * * *

I have, etc.,

G. M. DALLAS.

[Inclosure in Mr. Dallas's No. 16.—Translation.]

Count Nesselrode to Mr. Dallas.

ST. PETERSBURG, March 9, 1838.

The undersigned has had the honor to receive the note that Mr. Dallas, envoy extraordinary and minister plenipotentiary of the United States of America, was pleased to address him on the 16th (28th) of December, relative to the proposition previously brought forward by Mr. Wilkins, to renew the fourth article of the convention of April 5 (17), 1824, of which the effect had been limited to a term of ten years, and which had, consequently, expired in 1834.

The desire not to decide a question of this importance without a thorough knowledge of the subject, did not permit the Imperial Government to give an opinion in relation to it until detailed information had been collected, as well in regard to the wants of the Russian establishments in America as to the influence that the state of things secured by the fourth article had exercised there. In setting forth this consideration to Mr. Wilkins, the undersigned intimated, in his note of the 28th of November, 1835, that he would give timely notice to the legation of the United States of the determinations adopted on this subject by the Russian Government.

The information then expected has since reached the undersigned, and it appears that the execution of the temporary provisions contained in the fourth article had not been unattended with serious inconveniences, and that it has been really injurious to the prosperity of the Russian establishments on the northwest coast. The greater part of the foreign vessels which resort to this coast, in virtue of the said stipulations, have only made use of the right of trading with the natives in order to sell them spirituous liquors, fire-arms, and gunpowder. According to the tenor of the fifth article, these articles were expressly excluded from the trade; but experience has proven that this exclusion, and also the legislative measures by which the Government of the United States sought to carry it into effect, were illusory; since, by the same article, the contracting parties had deprived themselves of all means of controlling the vessels which should visit these latitudes, so that entire cargoes of rum, of fire-arms, and ammunition have been carried without hindrance into the Russian possessions and sold to the natives, thus necessarily endangering the germs of order and civilization which the agents of the Russian-American Company have already succeeded in introducing among these tribes.

It is, moreover, to be observed that the articles comprised in this fraudulent trade were expressly those of which the sale there offered most advantages, because the Russian-American Company having once for all excluded them from its own traffic with the natives, the latter could only procure them on board foreign vessels.

This state of things could not fail to occasion complaints and remonstrances, which, the Imperial Government being ever anxious for the preservation of its relations with the United States, would alone, from that time, be an adequate motive to induce it to desire that the stipulations of the fourth article should not be renewed. But another consideration, not less decisive, here presents itself: this is the obligation under which the Imperial Government is placed to protect the commerce and navigation of the Russian colonies, and to secure to them henceforth the peaceable enjoyment of the advantages which, by virtue of their privileges, they are destined to gather from the improvement (exploitation) of the fisheries as well as from the trade with the natives.

These considerations, taken together, render it impossible for the Imperial Government to accede to the proposition which has been made to it to renew the stipulations of the fourth article. The regret experienced by it on the occasion is, however, diminished by the conviction that the United States would not themselves derive any especial advantage from the longer continuance of these stipulations, since, according to a statement of the navigation in these places, even whilst the fourth article was yet in force, there were never more than four American vessels arrived in the course

of a whole year, and that even this number, hardly to be taken into account in the flourishing state of the mercantile marine of the Union, was diminishing in proportion as enterprises on the northwest coast offered fewer chances of success. It appears evident from this that the renewal of the fourth article could hardly contribute to extend, in a reciprocally useful manner, the commercial relations between Russia and the United States of America; or, by consequence, answer the constant solicitude of the Imperial Government to cement more and more, and in a mutual interest, the friendly connections which it is always happy to cultivate with the Government of the Union.

The undersigned has the honor, etc.,

NESSELRODE.

No. 190.

Mr. Dallas to Mr. Forsyth.

No. 17.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 13, 1838.

SIR: On the 9th instant, the communication of which I annex a copy was received from Count Nesselrode, in reply to my request, under date of the 26th of March last, to be furnished with information as to the measures adopted, or proposed to be adopted, by this Government, respecting the admission of American vessels into the Russian establishments on the northwest coast.

It will be perceived that the substance of Count Nesselrode's note is distinct and definitive, and that the single and simple measure adopted in relation to our vessels, is their absolute exclusion from what are deemed the Russian possessions. The published order of Governor Wrangel, to which Baron Krudener, in 1835, called your attention, is confirmed unqualifiedly in principle and practice; and the Cabinet at Washington is invited to repeat the warning heretofore given by it to the citizens of the United States not to contravene that prohibitory notice, so that they may avoid exposing themselves to the consequences of misunderstanding or collision.

Although my request for information was expressly limited to Russian establishments, and Count Nesselrode's reply to it may not strictly be extended beyond that limit, I can not help thinking that the prefatory and peculiar reference he has made to the expiration of the fourth article of the convention is meant as a reiteration of the position assumed in the case of the *Loriot*, Captain Blinn, to wit, that since April, 1834, our right to frequent the interior seas, gulfs, harbors, and creeks, north of 54° 40' north latitude, whether actually occupied or not, has ceased. The consistent brevity, indeed, with which the effect of the ten years' limitation is uniformly invoked, satisfies me that it is esteemed a "*point d'appui*," in relation to our rights and pretensions on the northwest coast, too conclusive to be omitted or argued. My letter, in answer to the first assumption of that position, dated the 17th of March, 1838, and forwarded to you with dispatch No. 15, has not been noticed.

* * * * *

Very respectfully, etc.

G. M. DALLAS.

[Inclosure in Mr. Dallas's No. 17.—Translation.]

Count Nesselrode to Mr. Dallas.

ST. PETERSBURG, *April 27, 1838.*

Mr. Dallas, envoy extraordinary and minister plenipotentiary of the United States of America, has been pleased in his note of the 14th (26th) of March, to express a

desire to know what measures have been adopted in consequence of the expiration of the fourth article of the convention of 1824, respecting the admission of American vessels into the harbors, bays, and rivers of the Russian establishments on the northwest coast. This request is made on account of the intention on the part of the Cabinet at Washington to adopt similar regulations, and such as may tend to prevent any injury to the relations now so fortunately existing between the two countries.

The undersigned, hastening to reply to an overture, accompanied by an assurance so satisfactory for the Imperial Government, makes it his duty to observe to Mr. Dallas, that, as the fourth article of the convention of the 5th (17th) of April, 1824, has only granted for ten years to the vessels of the two powers, or those belonging to their citizens or subjects, respectively, the right of frequenting, reciprocally, the interior seas, gulfs, harbors, and creeks on the coast mentioned in the third article of the same convention, for the purpose of fishing and trading with the natives of the country; and as this term of ten years expired in the month of April, 1834, the authorities of the Russian establishments on the said coast are required to see that American vessels no longer frequent the interior seas, gulfs, harbors, and creeks, situated north of the latitude of 54° 40' north, as Russian vessels are, in like manner, forbidden to visit places of the same sort south of that parallel; and to maintain this prohibition, it is the duty of the said authorities to adopt the necessary measures, with the view of keeping up relations of harmony between the two Governments.

The governor of the Russian colonies on the northwest coast, having made upon this subject a publication which has been submitted to the knowledge of the Government of the United States, and the Emperor's minister at Washington having immediately afterwards invited that Government to make known to the citizens of the United States the new order of things consequent upon the expiration of the fourth article, the undersigned flatters himself with the belief that the Cabinet at Washington, in executing its announced resolution to adopt on its part similar measures, will think proper likewise to repeat its warning to the citizens of the United States, not to contravene the prohibition in question, and thus to avoid exposing themselves to the consequences of a misunderstanding or collision, which the Imperial Government would be the first to deplore.

On its part, the Imperial Government will not cease to recommend to its authorities on the northwest coast the necessary precautions, so that, while maintaining the rights acquired by Russia at the expiration of the fourth article, they should not lose sight of the respect due to the bonds of amity which unite the two Governments, and which the Imperial cabinet will always desire to strengthen and render more close for the mutual interests of their respective citizens and subjects.

The undersigned seizes, etc.,

NESSELRODE.

No. 191.

Treaty concerning the cession of the Russian Possessions in North America by His Majesty the Emperor of all the Russias to the United States of America.

[Concluded March 30, 1867. Ratified by the United States May 28, 1867. Exchanged June 20, 1867. Proclaimed by the United States June 20, 1867.]

The United States of America and His Majesty the Emperor of all the Russias, being desirous of strengthening, if possible, the good understanding which exists between them, have, for that purpose, appointed as their plenipotentiaries: the President of the United States, William H. Seward, Secretary of State; and His Majesty the Emperor of all the Russias, the Privy Counsellor, Edward de Stoeckl, his Envoy Extraordinary and Minister Plenipotentiary to the United States.

And the said plenipotentiaries having exchanged their full powers, which were found to be in due form, have agreed upon and signed the following articles:

ARTICLE I.

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of

the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28-16, 1825, and described in Articles III and IV of said convention, in the following terms:

Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and the 133d degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen ocean.

IV. With reference to the line of demarcation laid down in the preceding article, it is understood—

1st. That the island called Prince of Wales Island shall belong wholly to Russia (now, by this cession, to the United States).

2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned (that is to say, the limit to the possessions ceded by this convention) shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom.

The western limit within which the territories and dominion conveyed, are contained, passes through a point in Behring's Straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern, or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceeds due north, without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's Straits and Behring's Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

ARTICLE II.

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian Government, shall remain the property of such members of the Greek Oriental Church resident in the territory, as may choose to worship therein. Any government archives, papers, and documents relative to the territory and dominion aforesaid, which may be now existing there, will be left in the possession of the agent

of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian Government, or to such Russian officers or subjects as they may apply for.

ARTICLE III.

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.

ARTICLE IV.

His Majesty the Emperor of all the Russias shall appoint, with convenient despatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V.

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI.

In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of his Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other, or by any parties, except merely private individual property holders; and the cession hereby made, conveys all the rights, franchises, and privileges now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII.

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and on the other by his Majesty the Emperor of all the

Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner, if possible.

In faith whereof, the respective plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington, the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

[L. S.]
[L. S.]

WILLIAM H. SEWARD.
EDOUARD DE STOECKL.

No. 192.

Mr. Seward to Mr. Clay.

No. 273.]

DEPARTMENT OF STATE,
Washington, December 23, 1867.

SIR: Much anxiety had been created in the United States by the report that Captain Mellen, master of the ship *Europa*, a United States whaling vessel, has written to the owners of the vessel that a party of Russians had established a fishery on the shore near Okhotsk City, in the Sea of Okhotsk; that a Russian armed steamer has been there and ordered the ships all away; that the captain of the steamer said he was authorized to drive United States whalers away from the place; and, finally, that the captain of the steamer has fired upon the ship's boat of the bark *Endeavor*, of New Bedford.

Mr. De Stoeckl, to whom I have applied, has no information on the subject. The statements received at this Department are altogether vague and without authentication. I will thank you to ascertain from the prime minister for foreign affairs what foundation, if any, there is for the statements, and what, precisely, are the instructions of the imperial government appertaining to the fisheries in the Sea of Okhotsk.

I am, sir, etc.,

WILLIAM H. SEWARD.

No. 193.

Mr. Clay to Mr. Seward.

No. 175.]

LEGATION OF THE UNITED STATES,
St. Petersburg, January 18, 1868.

SIR: I now transmit to you a copy of my note to Prince Gortchacow in reference to the Okhotsk affair, and also a copy of his reply, through the adjunct of the minister of foreign affairs to His Imperial Majesty, M. de Westmann.

I am, sir, your obedient servant,

C. M. CLAY.

[Inclosure 1 in Mr. Clay's No. 175.]

Mr. Clay to Prince Gortchacow.

NOTE 149.]

LEGATION OF THE UNITED STATES,
St. Petersburg, Russia, January 15, 1868, N. S.

The undersigned has the honor to represent to his excellency Prince Gortchacow chancellor, etc., to His Imperial Majesty, etc., that he is instructed by the Washington

Government to inform the imperial Government that much anxiety has been created in the United States by a report from Captain Mellen of the American whaling ship *Europa*, to its owners, that a party of Russians had established a fishery near the city of Okhotsk, in the sea of that name, and that a Russian armed steamer had ordered the ships away in the name of the Russian Government, claiming to be so authorized; and that the captain of said steamer had fired upon the boats of the bark *Endeavor*, of New Bedford.

Mr. de Stoeckl has been able to give no information upon the subject. The Secretary of State adds that the statements received at the Department are altogether vague and without authentication, and he therefore requests of the undersigned to ascertain from his excellency Prince Gortchacow what are precisely the instructions, if any, given by the Russian Government in regard to the fisheries in the sea of Okhotsk.

The American minister has the honor, etc.,

C. M. CLAY.

[Inclosure 2 in Mr. Clay's No. 175. Translation.]

Mr. Westmann to Mr. Clay.

The chancellor of the empire, who is sick, as you know, my dear general, has charged me to answer your note of the 3d (15th) of January, instant. Having asked (*demandé*) of the minister of marine information upon the affair named in your note, Admiral Krabbé has just informed us that the minister of marine has not, up to the present time, any knowledge of the conflict (*conflit*) which has taken place in the sea of Okhotsk between the Russian and American ships.

Accept, etc.,

WESTMANN.

JANUARY 5, 1863.

No. 194.

Mr. Seward to Mr. Clay.

No. 278.]

DEPARTMENT OF STATE,
Washington, February 24, 1868.

SIR: I recur on this occasion to my dispatch No. 273, which related to alleged hostile demonstrations of a Russian armed vessel against a United States whaling vessel in the sea of Okhotsk. That communication was grounded upon mere rumor, which furnished no details and was supported by no evidence. Prince Gortchacow, in his reply, answered substantially that the Russian Government had no information of the alleged conflict, and had given no orders or directions under which any hostile demonstrations could have been made.

At last I have received details, which, however, are very limited, and testimony which is very incomplete. This subsequent information is contained in a dispatch of Morgan L. Smith, esq., United States consul at Honolulu, which is accompanied by a deposition made by Manuel Enos, master of the American bark *Java*.* In brief, Mr. Enos's statement presents the following facts, namely: That on the 27th of July, while he was cruising for whales in Shantar Bay, and standing towards Silas Richard's bluff, a Russian armed vessel came towards him, apparently under full steam, hoisted its flag and threw open its ports. An officer from that Russian vessel went on board of the *Java* and ordered Captain Enos immediately on board the Russian steamer. The Russian commander demanded to know the business of the United States vessel there. Captain Enos answered that his business was whaling, where-

* For these papers see Dip. Corr., 1868, p. 468.

upon the Russian commander ordered Captain Enos to leave the bay within twenty-four hours, under a threat of taking Captain Enos with his vessel to Nicolawasky, or blowing him out of the water, as the Russian captain should think proper. Captain Enos replied that he had whaled in those bays for the last seventeen years, and had never heard of any one being driven out or of any purpose of excluding whalers. Captain Enos thereupon immediately left Shantar Bay.

Captain Enos further says that he afterwards learned from some of the crew of the American bark *Endeavor*, that they, knowing nothing of the trouble, went into the same place, Shantar Bay, a few days afterwards, and that their boats were fired into by the same vessel before mentioned, and that they were commanded to leave the bays by threats to the same effect with those which had been made against Captain Enos. The consul transmitting this statement says that he has been unable to procure the name of either the Russian vessel or her commander; that he is informed by the master of the English bark *Cobang*, that some Finns, subjects of the Czar, have a whaling station there, keeping two schooners in the bay and having their trying works on shore. If we were at liberty to assume these special statements to be true, and if we were not assured by the Russian Government that the transactions complained of occurred not only without its knowledge, but without any authority, we should in that case have reason for profound concern.

As the matter stands, with the possibility that similar armed hostile demonstrations may be made on the same quarter, there is reason to apprehend that discontent will arise, and perhaps conflict may occur between citizens of the United States and the subjects of Russia in the sea of Okhotsk. Nothing could be more inconvenient than such difficulties at the present moment, as I am well assured nothing could be more sincerely deprecated by the Russian Government.

You will give a copy of this communication to Prince Gortchacow, and of its accompaniments, Consul Smith's dispatch and Captain Enos's deposition, and invite Prince Gortchacow to give his attention to the same at his reasonable convenience.

I am, sir, etc.,

WILLIAM H. SEWARD.

No. 195.

Mr. Clay to Mr. Seward.

No. 183.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 20, 1868.

SIR: To-day I received from Prince Gortchacow a note of this date, in reference to the affairs of the Java, in the Sea of Okhotsk. I inclose you a translation of the same from the French.

I am, sir, etc.,

U. M. CLAY.

[Inclosure in Mr. Clay's No. 183.—Translation.]

Prince Gortchacow to Mr. Clay.

ST. PETERSBURG, March 8, 1868.

By his note of March 4 (16) instant, Mr. Clay, envoy extraordinary and minister plenipotentiary of the United States of America, has transmitted to the imperial

ministry a copy of a dispatch from Mr. Seward, accompanied with documents relative to the complaint of Señor Enos, captain of an American whaler, upon the subject of measures of rigor ("*de mesures de rigueur*") of which he had been the object on the part of a vessel of the imperial marine in the waters of the Sea of Okhotsk. In response to that communication, the undersigned, chancellor of the Empire, has the honor to inform Mr. Clay that the imperial ministry has not received, up to this time, the information which, from the reception of his first note of the 18th of January, it hastened to demand of the competent authorities relative to that affair.

As soon as the reports of these authorities shall reach him, the undersigned will lose no time (*s'empressera*) in communicating them to Mr. Clay.

He seizes, etc.,

GORTCHACOW.

No. 196.

Mr. Clay to Mr. Seward.

No. 199.]

LEGATION OF THE UNITED STATES,
St. Petersburg, August 14, 1868.

SIR: I herein inclose you a translation of the note, from the French, of Mr. de Westmann, acting minister of foreign affairs, etc., and a copy of my response, in reference to the affair in the Sea of Okhotsk.

I am, sir, etc.,

C. M. CLAY.

[Inclosure 1 in Mr. Clay's No. 199.—Translation.]

Mr. Westmann to Mr. Clay.

The undersigned, acting minister of foreign affairs, in referring to the note which General Clay, envoy extraordinary and minister plenipotentiary of the United States of America, was pleased to address to the chancellor of the Empire, dated the 4th (16th) of March ultimo, has the honor to inform him that he has been put in possession of advices which, according to the desire of the federal government, the imperial cabinet hastened to ask of the minister of marine concerning the incident occurring in the Sea of Okhotsk, between an American whaler and a ship of the imperial navy.

These are the circumstances: The schooner *Aleout*, under the command of Lieutenant Etoline, had been sent in commission from Nikolaievsk to Oudrk. The abundance of floating ice having forced him to enter into the gulf of Tongoursh, he there met, the 14th of July, at about twenty miles to the south of the straits of Chautarsk, near the eastern coast, the American whaler *Java*, occupied in rendering the oil of a captured whale. Considering that foreign whalers are forbidden by the laws in force to fish in the Russian gulfs and bays at a distance less than three miles from the shore, where the right of fishing is exclusively reserved to Russian subjects, Lieutenant Etoline warned (*invita*) the captain of the *Java* to "bear off" from the gulf of Tongoursh, which he at once did. The same day the *Aleout* made for the bay of Mawgon, where arrived, on the next day, the American whale-schooner *Caroline Foot*, whose captain, accompanied by the captain of the *Java*, called on Lieutenant Etoline and declared that he had no right to prevent them from fishing for whales wherever they liked. Lieutenant Etoline replied that there were in that respect established rules (*régles*), and if they insisted, absolutely, upon breaking them, that he would be compelled to prevent them. The captain of the schooner *Caroline Foot* pretending (*ayant prétendu*) that he had entered into the bay of Tongoursh in consequence of "deviations from his course," Lieutenant Etoline offered at once all assistance in his power; and, upon request, delivered him seven poods of biscuit from the stores of the *Aleout*. After which the two ships again went to sea. The 19th of July, that is, four days afterwards, the schooner *Aleout* met a whale, upon which the commander caused a trial fire to be made. At the same moment was seen, at about sixteen miles' distance, a sail, name unknown, and nearer, three "chaloupes," the nearest of which was at least three miles in advance in the direction of the cannon fire. In the evening all these ships had disappeared. That incident is registered in the books of the *Aleout* in the following terms: "The 19th of July, at 9 in the evening, at anchor in the bay of Mawgon, fired a cannon shot for practice at a whale afloat."

From these facts General Clay will be convinced that the incident alluded to has been exaggerated, and even perverted (*denaturé*), much in order to be represented as a cause of grievance against the commander of the *Aleout* on the part of the American whalers. In consequence of the conversation which had occurred between them, of the pretensions of the captain of the *Java* to fish wherever he pleased, and the necessity in which Lieutenant Etoline was placed to remind him of the laws which related to the right of fishing in the territorial waters of a foreign state, it is possible that the commander of the *Java* had really taken for a menace directed against him the fire of the experimental shot from the *Aleout*. But it is incontestable that the commander of the *Aleout* was acting in his right when he reminded the Americans of the laws in vigor, and his obligations to cause them to respect them. He certainly has not transgressed the limits of his rights in firing, four days afterwards, a trial shot upon a floating whale in Russian waters.

He had no intention by that of giving the American whalers a warning (*avertissement*), useless because they were out of difficulty, and since the distance which separated the *Aleout* from the ships and the "chaloupes" in view at the time excluded all such intentions. Lieutenant Etoline had taken in their behalf proceedings conformable to the good relations between the two countries, since he had offered them his assistance in repairing their deviations from their course, and in providing them with provisions. Finally, the commander of the *Aleout* has not thought it necessary to inform the authorities of that incident, because it appeared to him of no importance (*insignifiant*), and because on his part he was conscious of not having transgressed his rights, nor of having been wanting in his duty.

The undersigned flatters himself with the hope that the Federal Government, informed of these details, will consider the affair as settled (*Vincident comme vidé*).

He seizes at the same time this occasion to renew, etc.,

WESTMANN.

ST. PETERSBURG, July 31, 1868.

[Inclosure 2 in Mr. Clay's No. 199.]

Mr. Clay to Mr. Westmann.

LEGATION OF THE UNITED STATES,
St. Petersburg, August 2 (14), 1868.

The undersigned has the honor to acknowledge the receipt of note No. 2530 of his excellency, M. de Westmann, acting minister of foreign affairs, etc., dated July 31, ultimo, 1868, O. S., in reference to the affair in the Sea of Okhotsk, which he will hasten to lay before his Government.

Whilst the United States are justly jealous of all their maritime rights, the American minister believes that his Government, having had many signal proofs of the friendly sentiments of His Imperial Majesty's navy, will be slow to believe that they or any portion of His Imperial Majesty's subjects will designedly invade them.

The minister of the United States begs, etc.,

C. M. CLAY.

No. 197.

Mr. Seward to Mr. Clay.

No. 295.]

DEPARTMENT OF STATE,
Washington, August 31, 1868.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 14th of August, No. 199, which is accompanied by a note which was addressed to you on the 31st of July last, by M. de Westmann, acting minister of foreign affairs, and which contains the long looked for explanation of the collision which occurred in the Sea of Okhotsk between the commandant of a Russian ship of war and two United States whaling vessels, and which was made a subject of inquiry by this Government. In substance the explanation is, that Lieutenant Etoline, commanding the Russian war schooner *Aleout*, on the 14th of July, 1867,

was entering the gulf of Toumourish, and was about twenty miles to the north of the straits of Chautarsk, near the eastern coast, when he discovered the United States whaling ship *Java* occupied there in rendering the oil of a captured whale. The lieutenant had no special orders or instructions or charge from his government concerning these United States whalers, or indeed any whalers, in Russian waters far from or near the coast of Russia. Moved, however, by the consideration that Russia enjoys the undeniable right of admiralty in all waters lying within three miles of her territory, Lieutenant Etoline warned the captain of the *Java* to bear off from the gulf of Toumourish. The captain of the *Java* immediately moved away, in prompt compliance with this warning. On the next day the *Aleout* was in the bay of Mawgon. The captain of the United States whaling schooner *Caroline Foot* accompanied the captain of the *Java*, who called upon Lieutenant Etoline. Then Lieutenant Etoline represents that the captain of the *Java* on that occasion remarked that Lieutenant Etoline had no right to prevent their fishing for whales wherever they liked. In reply to this general assertion Lieutenant Etoline said that there are regulations, and that if the captains of the whalers should insist on breaking those regulations he would be obliged to prevent them. Here the conversation ended. Thus far nothing was done by either of the captains of the whaling vessels which could be considered as an invasion or violation of Russian jurisdiction. The conversation was a desultory one, having no practical bearing upon any proceeding ever before or after attempted, or even contemplated, by either party.

The parties, indeed, have mutually expressed themselves with some indiscretion. Lieutenant Etoline does not allege that the whaling ship *Java* was within 3 miles of the shore when he warned her to bear off. On the other hand, the captain of the *Java* spoke unwarrantably when by implication he denied that the Russian authorities have a right to prevent foreign vessels from fishing for whales within 3 marine miles of their own shore. Lieutenant Etoline then offered assistance and furnished provision to the schooner *Caroline Foot*, which vessel was then in distress; this proceeding was commendable, and it is appreciated by this Government. Here this merely accidental intercourse between the commanders of the *Aleout* and of the United States whalers *Java* and *Caroline Foot* practically ended, and certainly without having offered any serious ground of complaint to the Government of either party against the other. The transaction, nevertheless, had a sequel, and this sequel resulted in a misunderstanding on the part of the captains of the whalers. Four days after the vessels had parted in the bay of Mawgon the *Aleout* met a whale afloat. The commander ordered a cannon to be fired at the whale by way of a trial shot. At the same moment there appeared, at about 16 miles distance, a sail, name unknown, and nearer, three chaloupes, the nearest of which was more than 3 miles distant from the *Aleout*, but all in the direction of the cannon-shot. In the evening all of the vessels had disappeared. It is to be presumed that the *Java* was one of those vessels. The captain of the *Java*, hearing the report of this trial fire of the *Aleout*, seemed to have referred it to the conversation he had had four days before with Lieutenant Etoline, and so he has, not unnaturally, represented the transaction to this Government as one in which the Russian officer had fired upon his whaling vessel with an intention to drive him from the Sea of Okhotsk.

Lieutenant Etoline disavows and denies the construction thus put upon his proceeding in the transaction, and the denial is rendered entirely credible by the fact that he set down only the fact of his firing at the

whale in his log-book and of the vessels seen in the distance; nor did he think his proceeding of such importance or interest as to report it to his Government, and he was surprised when informed of the construction which the captain of the *Java* had put upon it.

In any case, the disavowal by the Russian Government of any hostile or unfriendly direction, instruction, or sanction of any proceeding or intention unfriendly to the United States is quite abundant for the satisfaction of this Government.

You will give a copy of this communication to Mr. de Westmann.

I am, sir, etc.,

WILLIAM H. SEWARD.

No. 198.

Treaty between the United States and Great Britain, concluded at Washington May 8, 1871.

ARTICLE XXVI.

The navigation of the river St. Lawrence, ascending and descending, from the forty fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the rivers Yukon, Porcupine, and Stikine, ascending and descending, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

No. 199.

Mr. Hoffman to Mr. Evarts.

[Extract.]

No. 44.]

LEGATION OF THE UNITED STATES,
St. Petersburg, June 10, 1878. (Received June 29.)

SIR: My attention has been called by an intelligent American merchant, long resident at Vladivostok, on the Gulf of Corea, to the whale and other fisheries of the Sea of Okhotsk. The restoration of our shipping interests to their former prosperity is a matter which I know you have so much at heart, that I do not hesitate to call your attention to the subject. My information is derived from the archives of this legation and from the gentleman in question.

In December, 1867, there was much feeling excited in the United States by the rumor that American whalers had been ordered out of the Sea of Okhotsk and their boats fired upon by a Russian cruiser. Mr. Seward instructed Mr. Clay, then United States minister at this

post, to bring the matter to the attention of the Russian Government. Prince Gortchakoff replied that he knew nothing of the occurrence in question, but that no orders had been given to drive foreign fishing vessels from the Sea of Okhotsk. Later Mr. Seward again wrote to Mr. Clay that he had now learned the facts of the case, which he proceeded to detail. It appears that the American whaler *Java*, Captain Enos, while in Shantar Bay, had been ordered out by a Russian armed vessel, and that on the next day her boats had been fired on in the open sea. Mr. Clay brought the matter to the attention of the Russian Government, and in due time received its explanation. It appeared that Lieutenant Etholin, of the armed schooner *Aleout*, without special orders, had undertaken to enforce an undoubted principle of international law, and had ordered the *Java*, engaged in fishing in the Gulf of Tongolsk and within three miles of the shore, to leave that gulf; and that the next day, as he was practicing with his guns, he fired in the direction of the boats of an American whaler, but at such a distance that it was impossible for his shot to reach them. Mr. Seward appears to have accepted the explanation as satisfactory, and the matter dropped.

But the incident seems to have called Mr. Seward's attention to the subject of our fisheries in the northern Pacific, and with that forethought which distinguished him, he proposed to Baron Stoeckl, then Russian minister at Washington, the "projet" of a treaty to regulate these fisheries. Baron Stoeckl was on the point of visiting St. Petersburg, and Mr. Seward requested him to bring the matter to the attention of Prince Gortchakoff.

In his memorandum of reasons for the proposed treaty Mr. Seward speaks of the great danger of leaving questions like this unsettled, on account of the bitterness and discord they are so apt to breed. He states that the fisheries of the north Atlantic have been, from the beginning of our national existence and still are, a source of difficulty and danger to the good relations of the United States and Great Britain; and adds that in the absence of a treaty each power will be apt, as Canada and Nova Scotia had done, to enact laws aimed spitefully at the fishermen of the other friendly nation, "such exasperating laws being in time of peace equivalent in spirit to the arbitrary laws affecting trade which belligerents bring into operation when they engage in war."

For this correspondence and proposed treaty, or rather an analysis of it and reasons therefor, see No. 273, December, 1867; No. 278, February, 1868; No. 289, June, 1868; No. 295, August, 1868, and No. 302, October, 1868, and memorandum attached thereto.

The records of this legation do not show what further steps, if any, were taken in regard to the projected treaty. No doubt some record on this subject is to be found in the Department, or perhaps Mr. Frederick W. Seward may be able to give you the information from memory.

May I be permitted to suggest that the present is a favorable opportunity to renew these negotiations. Russia is very friendly towards the United States. I am not prepared to say that the fisheries upon our coast—except the whale fishery—are of less value than those upon the Russian coast; but I am confident that our fishermen, with their usual enterprise, will use these much more than the Russians would use ours.

However this may be, it is certain that the Sea of Okhotsk and the east coast of Kamchatka teem with fish. The king-salmon is found in the latter, a delicious fish, reaching as high as 120 pounds in weight; and so abundant are the salmon, that a boat-load of one hundred fish, averaging 10 pounds, may be bought for 3 rubles—\$1.50. But probably

the most valuable fishery of all is the cod, for I believe it is not found on our Pacific coast, and there is great demand for this fish in San Francisco. Several boats from that city are now engaged in this fishery, and so profitable is it, that the number is constantly and rapidly increasing. The fish are taken off the southwest coast of Kamchatka in the open sea, thrown into the hold, and salted. No doubt an effort will soon be made to carry them to San Francisco alive.

I have, etc.,

WICKHAM HOFFMAN.

No. 200.

Mr. Frelinghuysen to Mr. Hoffman.

No. 120.]

DEPARTMENT OF STATE,
Washington, March 7, 1882.

SIR: I inclose copies of letters from the Treasury, and a copy of a letter from Messrs. Lynde & Hough, of San Francisco, to the Secretary of the Treasury, touching the Pacific coast fisheries. This latter communication states that according to late news "foreign vessels must receive an order from the governor of Siberia, besides paying duties of \$10 per ton on all fish caught in Russian waters," which they say would be ruinous to their business. In view of the above, I have to ask that you will make immediate inquiry on this subject, and report the facts. If a brief telegram will furnish information of value to our fishermen in this regard, you can send one.

I am, etc.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 120.]

Mr. Folger to Mr. Frelinghuysen.

TREASURY DEPARTMENT,
February 2, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d ultimo, transmitting a copy of a dispatch of the 21st of November last from the minister of the United States at Tokei, Japan, with its inclosure, relative to the notice given by the Russian consul at Yokohama in reference to the licensing of foreign vessels trading, hunting, or fishing on the Asiatic coast of Russia.

I have to inform you that this Department has issued circular instructions to collectors of customs and others at every port throughout the country, to which the Russian consul's notice is subjoined, dated January 30, 1882, and I inclose herewith six copies of the circular.

Very respectfully,

CHAS. J. FOLGER.

[Circular.]

Permit required for hunting, trading, and fishing on Russian coasts of the Okhotsk and Behring Seas.

TREASURY DEPARTMENT; OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1882.

TO COLLECTORS OF CUSTOMS AND OTHERS:

The subjoined notice by the Russian consul at Yokohama, that American vessels are not allowed, without a special permit or license from the governor-general of

Eastern Siberia, "to carry on hunting, trading, fishing, etc., on the Russian coasts, or islands in the Okhotsk or Behring Seas, or on the northeastern coast of Asia, or within the sea-boundary line," is published by the Department for the information of American ship-masters interested.

It will be observed that the Russian order took effect on January 1, 1882.

CHAS. J. FOLGER,
Secretary.

NOTICE.

At the request of the local authorities of Behring and other islands, the undersigned hereby notifies that the Russian Imperial Government publishes, for general knowledge, the following:

I. Without a special permit or license from the governor-general of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, etc., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the northeastern coast of Asia, or within their sea-boundary line.

II. For such permits or licenses, foreign vessels should apply to Vladivostok, exclusively.

III. In the port of Petropaulovsk, though being the only port of entry in Kamtschatka, such permits or licenses shall not be issued.

IV. No permits or licenses whatever shall be issued for hunting, fishing, or trading at or on the Commodore and Robben islands.

V. Foreign vessels found trading, fishing, hunting, etc., in Russian waters, without a license or permit from the governor-general, and also those possessing a license or permit who may infringe the existing by-laws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the government. This enactment shall be enforced henceforth, commencing with A.D. 1882.

VI. The enforcement of the above will be intrusted to Russian men-of-war, and also to Russian merchant-vessels, which, for that purpose, will carry military detachments and be provided with proper instructions.

A. PELIKAN,
H. I. R. M. Consul.

YOKOHAMA, November 15, 1881.

[Inclosure 2 in No. 120.]

Mr. Folger to Mr. Frelinghuysen.

TREASURY DEPARTMENT,
February 24, 1882.

SIR: I have the honor to inclose herewith, for such action in the case as you may deem proper, a letter from Messrs. Lynde & Hough, of San Francisco, Cal., stating that they are extensively engaged in the Pacific coast cod-fisheries, and that they will fit out their vessels, to sail about the 1st of May next, in that enterprise, in which they have never been molested; but they now learn that foreign vessels must receive an order from the governor of Siberia, besides pay a duty of \$10 per ton on all fish caught in Russian waters, which, if sustained, will be ruinous.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

[Inclosure 3 in No. 120.]

Messrs. Lynde & Hough to Mr. Folger.

SAN FRANCISCO, February 15, 1882.

SIR: You will please pardon us for this seeming intrusion, but the matter in which we now seek your aid and kind assistance is of great import to us.

We now are and have been extensively engaged in the Pacific coast cod-fisheries, and, in fact, are among the very few who fifteen years ago started in a small way, believing with energy and fair dealing we could work up an enterprise that would be a benefit to the coast. Our ideas were correct. We have been yearly sending vessels to the coast of Kamchatka (Sea of Okhotsk) for fish. We never have been molested in Russian waters from catching codfish or procuring bait, which are small salmon in the rivers, or filling fresh water for use of ship, but it appears now there is a law which has never been enforced against foreigners, the same we have recently noted, and

which we have been apprised of, and the substance is that foreign vessels must receive an order from the governor of Siberia, besides must pay a duty of \$10 per ton on all fish caught in Russian waters. This decree, if sustained, is ruinous to one of the best and rising industries of the coast, and as we fit our vessels to sail about 1st of May, leaves us but little chance to arrange matters this season save with your kind assistance in the matter. Our business is fishing entirely. We use no trade with natives, having nothing to do with the taking or purchasing of furs. At this time we are placed in a very bad predicament. Trusting that you can relieve us from this embarrassment, and receive an early reply on the subject,

We are, etc.,

LYNDE & HOUGH.

P. S.—Our vessels fish from 10 to 25 miles from shore.

No. 201.

Mr. Hoffman to Mr. Frelinghuysen.

No. 207.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 14, 1882. (Received April 3.)

SIR: I have the honor to acknowledge the receipt of a circular of the Treasury Department of January 30 last upon the subject of fishing, etc., in the Behring Sea and in the Sea of Okhotsk.

I am able to give the Department some little information upon this subject, derived nearly four years ago from Mr. Charles H. Smith, for many years a resident of Vladivostok, and at one time our consul or vice-consul at that port.

A glance at the map will show that the Kurile Islands are dotted across the entrance to the Sea of Okhotsk the entire distance from Japan on the south to the southernmost cape of Kamchatka on the north.

In the time when Russia owned the whole of these islands her representatives in Siberia claimed that the Sea of Okhotsk was a *mare clausum*, for that Russian jurisdiction extended from island to island and over two marine leagues of intermediate sea from Japan to Kamchatka.

But about five years ago Russia ceded the southern group of these islands to Japan in return for the half of the island of Saghalien, which belonged to that power.

As soon as this was done it became impossible for the Siberian authorities to maintain their claim. My informant was not aware that this claim had ever been seriously made at St. Petersburg.

The best whaling grounds are found in the bays and inlets of the Sea of Okhotsk. Into these the Russian Government does not permit foreign whalers to enter, upon the ground that the entrance to them, from headland to headland, is less than two marine leagues wide. But while they permit no foreign whalers to penetrate into these bays, they avail themselves of their wealth very little. The whole privilege of whaling in those waters is a monopoly, owned by an unimportant company, which employs two or three sailing schooners only, the trying and other laborious work being done at their stations on shore.

Referring to my No. 44, of June, 1878, I have the honor to add that Baron Stoeckl told me in conversation last winter that we failed to make a fishing treaty with Russia in 1868, principally on account of the vested interests of this company.

Mr. C. H. Smith now resides at Great Falls, N. H., and would be glad, I am sure, to put his information at the service of the Department.

I am, sir, etc.,

WICKHAM HOFFMAN.

No. 202.

Mr. Hoffman to Mr. Frelinghuysen.

No. 211.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 27, 1882. (Received April 13.)

SIR: I have the honor to acknowledge the receipt of your No. 120, with its inclosures, in reference to our Pacific Ocean fisheries. Your dispatch reached me yesterday, and to-day I have written to Mr. de Giers upon the subject, and I propose to call upon him upon his first reception day. In the mean time, and until further information, I do not see that any new orders necessarily affecting our fishermen have been issued by the Russian Government. Messrs. Lynde & Hough have apparently given insufficient attention to the words "Russian waters." These waters are defined in the notice published by the imperial vice-consulate at Yokohama, as follows:

Fishing, etc., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the northeastern coast of Asia, or within their sea boundary line.

If I recollect correctly the information given me by Mr. Smith upon this subject, referred to in my No. 44, of June, 1878, and in my No. 207, of this month, the cod banks lie in the open Sea of Okhotsk, many marine leagues off the southwestern coast of Kamchatka. I observe that Messrs. Lynde & Hough state that their vessels fish from 10 to 25 miles from the shore. At that distance in an open sea they can not be said "to fish upon the coast."

I do not think that Russia claims that the Sea of Okhotsk is a *mare clausum*, over which she has exclusive jurisdiction. If she does, her claim is not a tenable one since the cession of part of the group of the Kurile Islands to Japan, if it ever were tenable at any time.

I may add that, according to the information given me four years ago, Russia opposes no objections to foreign fishermen landing in desert places on the coast of Kamchatka, far from the few villages which are found on that coast, for the purposes of catching bait and procuring fresh water; but she does object to all communication between trading and fishing vessels and the inhabitants, alleging that these vessels sell them whisky, upon which they get drunk and neglect their fishing, their only means of livelihood, and then, with their wives and children, die of starvation the ensuing winter.

I am, sir, etc.,

WICKHAM HOFFMAN.

No. 203.

Mr. Hoffman to Mr. Frelinghuysen.

No. 228.]

LEGATION OF THE UNITED STATES,
St. Petersburg, May 22, 1882. (Received June 6.)

SIR: Referring to your No. 120 and to my Nos. 211 and 215, I have the honor to forward to you herewith a translation of a note recently received from M. de Giers upon the subject of hunting, fishing, and trading in the Pacific waters.

I do not see that there is anything in the regulations referred to that affects our whalers, nor our cod-fisheries either, except that when they go ashore to catch small fish for bait in the streams they expose them-

selves to interruption from the Russian authorities, who, finding them in territorial waters, may accuse them of having taken their fish therein.

I will endeavor to procure and forward you a translation of the articles of the code referred to by M. de Giers, that you may have the whole matter before you. This can not be done, however, under several days.

I am, sir, etc.,

WICKHAM HOFFMAN.

[Inclosure in No. 228.—Translation.]

Mr. de Giers to Mr. Hoffman.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,

May 8 (20), 1882.

SIR: Referring to the exchange of communications which has taken place between us on the subject of a notice published by our consul at Yokohama relative to fishing, hunting, and to trade in the Russian waters of the Pacific, and in reply to the note which you addressed to me, dated March 15 (27), I am now in a position to give you the following information:

A notice of the tenor of that annexed to your note of the 15th March was, in fact, published by our consul at Yokohama, and our consul-general at San Francisco is also authorized to publish it.

This measure refers only to prohibited industries and to the trade in contraband; the restrictions which it establishes extend strictly to the territorial waters of Russia only. It was required by the numerous abuses proved in late years, and which fell with all their weight on the population of our sea-shore and of our islands, whose only means of support is by fishing and hunting. These abuses inflicted also a marked injury on the interests of the company to which the Imperial Government had conceded the monopoly of fishing and hunting ("exportation") in islands called the "Commodore" and the "Seals."

Beyond this new regulation, of which the essential point is the obligation imposed upon captains of vessels who desire to fish and to hunt in the Russian waters of the Pacific to provide themselves at Vladivostok with the permission or license of the governor-general of Oriental Siberia, the right of fishing, hunting, and of trade by foreigners in our territorial waters is regulated by article 560 and those following, of volume 12, part 2, of the Code of Laws.

Informing you of the preceding, I have the honor, etc.,

GIER.

No. 204.

Mr. Hoffman to Mr. Frelinghuysen.

No. 231.]

LEGATION OF THE UNITED STATES,

St. Peterburg, June 14, 1882. (Received July 3.)

SIR: Referring to my No. 228, I have the honor to forward to you herewith a translation of a note and inclosure received yesterday from M. de Giers upon the subject of fishing and hunting in the Russian Pacific waters. As far as I am at present informed, the Department has now before it the whole legislation of Russia upon the subject.

I am, sir, etc.,

WICKHAM HOFFMAN.

[Inclosure in No. 231.—Translation.]

M. de Giers to Mr. Hoffman.

MINISTER OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,

June 1 (13), 1882.

SIR: In consequence of the note which you addressed to me on the 13th (25th) May, relative to fishing and hunting in our Pacific waters, and in which you ex-

pressed the desire to have a translation of the articles of our code which govern the matter, I have the honor to transmit to you herewith a translation of articles 560, etc., of the code, volume 12, part 2.

Receive, sir, etc.,

GIER8.

[Translation.]

ART. 560. The maritime waters, even when they wash the shores where there is a permanent population, can not be the subject of private possession; they are open to the use of one and all.

ART. 561. No exception will be made to this general rule, except under the form of special privileges granted for the right of fishing in certain fixed localities and during limited periods.

ART. 562. The above regulation regarding the right of fishing and analogous occupations on the seas extends equally to all lakes which do not belong to private properties.

ART. 565. No restriction shall be established as regards the apparatus (engines) employed for fishing and for analogous occupations in the high seas, and it shall be permitted to every one to use for this purpose such apparatus as he shall judge to be best according to the circumstances of the locality.

ART. 571. Ships in quarantine are not permitted to fish. The same prohibition extends in general to all persons in those localities where ships are lying undergoing quarantine.

No. 205.

Mr. Bayard to Mr. Taft.

No. 13.]

DEPARTMENT OF STATE,
Washington, March 25, 1885.

SIR: I inclose a copy of a dispatch from Kanagawa, Japan, and of the papers accompanying the same, relating to the unwarranted seizure of the schooner *Eliza*, the property of a highly respected American citizen doing business at Yokohama, Japan, by the Russian cruiser *Raz-boïnik*, in the Anadyr River, on the 21st July last, and its subsequent "confiscation" by the captain of the cruiser without any court of inquiry.

According to the statement of the owner the vessel was on a trading voyage and catching walrus. No act obnoxious to Russian law seems to have been committed in the premises; neither was any article carried by the vessel which could have warranted the seizure and confiscation referred to.

The papers have been carefully examined by the law officer of the Department, and, in pursuance of his advice, I have to ask that you will present the claim of Mr. F. C. Spooner, the owner of the *Eliza*, for the favorable consideration of His Majesty's Government.

"The pecuniary loss to me," says Mr. Spooner in his sworn statement, "of the vessel and cargo would amount to \$10,000, and for this sum, together with all other expenses that may appear to have been incurred through this seizure and confiscation, I wish to make claim on the Russian Government."

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 13.]

Mr. Rice to Mr. Bayard.

No. 879.]

UNITED STATES CONSULATE-GENERAL,
Kanagawa, Japan, February 9, 1885. (Received March 16.)

SIR: Herewith I have the honor to hand you a communication from Mr. Francis C. Spooner, a highly respectable American merchant, for many years resident and doing

business at Yokohama, Japan, concerning the seizure by the Russian authorities of the schooner *Eliza*, the property of the said Spooner, on the 26th of July, 1884. I also inclose the depositions of Austin Weston, master, and Albert Wixon, mate, of said vessel, giving the details of the schooner's cruise and her seizure.

From these papers it would appear that the schooner was engaged in no illegal commerce and was violating no law or obligation, and that the said seizure was an act of piracy.

I also inclose certified copies of the bill of sale of said schooner to Mr. Spooner, certificate of American ownership, certificate of change of name from *Kiwa Elizabeth* to *Eliza*, and copy of last clearance of said schooner from this port.

I commend to favorable consideration the claim of the owner for the damages as assessed by him.

I have, etc.,

GEO. E. RICE,
Vice-Consul-General.

[Inclosure 1 in Mr. Rice's No. 879.]

Affidavit of F. C. Spooner.

I, F. C. Spooner, owner of the schooner *Eliza*, that left this port on the 21st March last, under protection of the American flag, and was seized by the Russian cruiser *Razboinik*, in the Anadyr River, on the 26th day of July last, do hereby protest against the seizure as illegal and unwarranted, and desire a representation, through the proper authorities, to the Russian Government.

The vessel was simply on a trading voyage, engaged in bartering with the natives and catching walrus, and as such did not come under the notice of the Russian Government, which was directed against the capture of seals on Copper, Robbin, and Behring's Island.

I hand herewith affidavit of the master, Austin Weston, supported by his chief officer. The vessel's papers were in order and she had been properly cleared from this port. No salt was on board and no preparation made for an attempt to take seals.

The vessel has been confiscated by the captain of the *Razboinik* and without any court of inquiry, which high-handed act I believe to be against the law of nations.

The pecuniary loss to me of the vessel and cargo would amount to \$10,000, and for this sum, together with all other expenses that may appear to have been incurred through this seizure and confiscation, I wish to make claim on the Russian Government.

Sworn to before me this 20th November, 1884.

[SEAL.]

F. C. SPOONER.

GEO. E. RICE,
United States Vice-Consul-General, Kanagawa, Japan.

[Inclosure 2 in Mr. Rice's No. 879.]

Affidavit of Austin Weston, master of the American schooner Eliza.

I, Austin Weston, late master of the American schooner *Eliza*, being duly sworn, do hereby affirm:

Sailed from Yokohama March 21, 1884, with a crew of 14, all told, consisting of myself, 2 officers, cook, and 10 men before the mast, bound on a hunting and trading voyage to northeastern Siberia.

My cargo consisted of assorted and general goods such as are requisite in that section to obtain whalebone, ivory, and furs.

My vessel was duly cleared from the Yokohama customs, the 21st of March, the day of sailing.

A specified invoice of everything on board was supplied me before leaving. Sailed for Behring's Straits, was in the ice pack forty-nine days, and reached Cape Chaplin on the 23d of June, where I traded for bone, ivory, furs, and blubber.

Left Chaplin for St. Lawrence Bay and East Cape, where I got a good quantity of bone and furs. Returning through the straits I sailed to the westward, stopping at Cape Acheen, and then into the Gulf of Holy Cross, where I remained seventeen days hunting and killing walrus; then to the mouth of the Anadyr River, where I arrived on the 23d July.

Proceeded up the river a few miles to a village, traded here, and continued on. On the 26th, about 2 p. m., was boarded by a boat from the Russian cruiser *Razboinik* and ordered to report on board with my log-book and all ship papers.

These consisted of ship's articles, bill of sale, Yokohama clearance, and manifest of cargo and stores.

The latter was found and produced a short time after seizure, although mislaid at the time, and no attempt was made to conceal anything.

The vessel was at once declared to be confiscated, and I with a portion of the crew were taken by the *Razboinik* to Petropaulski and landed. The remainder of the crew were kept on board the schooner to work her to Vladivostok. After being twenty-one days at Petropaulski I was taken again on board the *Razboinik* and taken to Vladivostok and again set at liberty. The schooner arrived off the harbor the same day and was towed in by the cruiser; was afterwards hauled into dock and everything taken out of her.

Immediately on arrival at Vladivostok the five men who had been detained on board the *Eliza*, to work the vessel, were thrown on the hands of the consul, and their expenses there and passage to Yokohama refused.

I deny the statement in the protocol that the vessel had neither bill of lading nor clearance, for she had both.

There was a great search made for salt as the most important article to cause confiscation, but there was none on board.

I sailed from Yokohama with positive instructions from my owners not to attempt any capture of seals and to keep away from the islands frequented by them, knowing the Russian Government had forbidden any depredations. My trading voyage was similar to what has been going on for years without molestation from the Russian Government, and I plead ignorance that the notice issued and referred to in the protocol was intended to apply to any thing except the protection of the seal fisheries, and particularly to the Copper, Robbin, and Behring Islands.

Sworn to before me this 20th November, 1884.

[SEAL.]

AUSTIN WESTON.

GEO. E. RICE,

United States Vice-Consul-General, Kanagawa, Japan.

Albert Wixon, being duly sworn, says that the foregoing is a true and correct statement.

ALBERT WIXON,
Mate Schooner *Eliza*.

Sworn to before me this 20th November, 1884.

[SEAL.]

GEO. E. RICE,

United States Vice-Consul-General, Kanagawa, Japan.

[Inclosure 3 in Mr. Rice's No. 379.]

Ship's papers of the Eliza.

1. BILL OF SALE.

YOKOHAMA, May 4, 1882.

By order of H. I. Russian Majesty's court at Kanagawa, was sold at public auction on the 2d day of May, 1882, the schooner *Kiwa Elizabeth*, to foreclose a mortgage held by F. C. Spooner on said vessel. The said vessel was sold to said Spooner for the sum of three thousand six hundred dollars (\$3,600), the acknowledgment of payment of said sum constituting a bill of sale for the said schooner. N. 86.

[SEAL.]

A. PELIKAN,
H. I. M.'s Consul.

2. CERTIFICATE OF AMERICAN OWNERSHIP.

CERTIFICATE TO BE ISSUED TO CITIZENS OF THE UNITED STATES, BEING PURCHASERS OF AMERICAN OR FOREIGN-BUILT VESSELS IN A FOREIGN PORT.

I, Thos. B. Van Buren, consul-general of the United States for the port of Kanagawa, Japan, do hereby certify that the within bill of sale, bearing date the fourth day of May, 1882, of the schooner *Eliza*, formerly called the *Kiwa Elizabeth*. Tonnage, 113 tons; length over all, 74 feet; breadth, 20 feet; depth, 8 feet; masts, 2; decks, 1; frame, wood, and iron fastened; stem, elliptic. Sold and transferred by A. Pelikan,

Russian consul, to F. C. Spooner, under foreclosure of mortgage, has been proved satisfactorily to me to have been duly executed by the subscribing party; and I further certify the F. C. Spooner therein mentioned as purchaser of said vessel is a citizen of the United States. As witness my hand and the seal of the consulate-general this thirty-first day of May, in the year of our Lord 1882.

[SEAL.]

THOS. B. VAN BUREN,
Consul-General.

3. CERTIFICATE OF CHANGE OF NAME OF SCHOONER FROM KIWA ELIZABETH TO ELIZA.

To all whom it may concern: Whereas I, Frank C. Spooner, of Yokohama, in the Empire of Japan, am the sole owner of the schooner called the *Kiwa Elizabeth*, of Yokohama aforesaid; and whereas it is my desire and intention to change the name of said schooner: Now, therefore, by these presents be it known that from and after the date hereof said schooner will be known as and called the *Eliza*, of Yokohama.

Witness my hand and seal at Yokohama this thirty-first day of May, in the year one thousand eight hundred and eighty-two.

[SEAL.]

F. C. SPOONER.
By CHAS. WIGGINS,
His Attorney.

Signed and sealed in the presence of—

GEO. E. RICE.

H. S. VAN BUREN.

U. S. CONSULATE-GENERAL, Kanagawa, Japan:

On this thirty-first day of May, in the year one thousand eight hundred and eighty-two, personally appeared before me Charles Wiggins, known to me to be the attorney for F. C. Spooner, and who executed the foregoing instrument, and who acknowledged to me that he executed the same for the purposes therein set forth.

Witness my hand and official notarial seal at the place and time last above written.

[SEAL.]

THOS. B. VAN BUREN,
Consul-General.

Recorded in record-book D of the U. S. consulate-general at Kanagawa, Japan, this 31st May, 1882, at 11 a. m.

4. CERTIFICATE OF CLEARANCE OF ELIZA.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,

March 21, 1884.

I, the undersigned, deputy consul-general of the United States of America for Kanagawa, Japan, and the dependencies thereof, do hereby certify that A. Weston, master of the schooner called the *Eliza*, of Yokohama, having this day exhibited to me the clearance of said schooner from the proper authorities of this port, I have delivered to him, the said master, the bill of sale and papers of the said schooner, duly deposited in this consulate-general on the 6th day of November, 1883.

Given under my hand and the seal of this consulate-general the day and year above written.

[SEAL.]

GEO. E. RICE,
U. S. Deputy Consul-General.

U. S. CONSULATE-GENERAL, Kanagawa, Japan.

I, vice-consul-general of the United States at Kanagawa, Japan, do hereby certify that the foregoing bill of sale from his Imperial Russian Majesty's consul to F. C. Spooner; certificate by the United States consul-general of American ownership, and certificate of change of name; also certificate of clearance, constituting the papers of the schooner *Eliza*, of Yokohama, are true and correct copies of the original of same, of record in this consulate.

Witness my hand and seal of office this ninth day of February, A. D. 1885.

[SEAL.]

GEO. E. RICE,
Vice-Consul-General.

No. 206.

Mr. Bayard to Mr. Wurts.

No. 50.]

DEPARTMENT OF STATE,
Washington, June 28, 1886.

SIR: I have to call the attention of your legation to the instruction of March 25, 1885, to Mr. Taft in regard to the seizure of the schooner *Eliza* by the Russian cruiser *Razboinik*, July 21, 1884. No answer seems to have been made to that instruction.

Mr. Cummings, the attorney of the claimant, has recently inquired as to the action of the legation in the premises.

I am, etc.,

T. F. BAYARD.

No. 207.

Mr. Bayard to Mr. Lothrop.

No. 65.]

DEPARTMENT OF STATE,
Washington, December 4, 1886.

SIR: I transmit a copy of a dispatch from the United States consul at Nagasaki, relating indirectly to the seizure and confiscation of the American schooner *Henrietta* by the Russian corvette *Kreysser*, in Behring Strait, off East Cape, August 29 last, for fishing and trading in Russian waters. You will please apply, with due urgency, to the Emperor's Government for the facts and an explanation of its claim. Opinion as to the merits of the question is for the time reserved.

I am, etc.,

T. F. BAYARD.

[Inclosure No. 65.]

Mr. Birch to Mr. Porter.

No. 44.]

UNITED STATES CONSULATE,
Nagasaki, Japan, October 18, 1886. (Received November 23.)

SIR: I have the honor to inform you that five destitute seamen, named Charles Blois, Charles Giles, Thomas Greenfell, James Hurley, and Frederick Nelson, came upon this consulate to-day from Vladivostok.

These men were part of the crew of the schooner *Henrietta*, of San Francisco, Benjamin Dexter master, and James Sennett owner, which was seized and confiscated by the Russian corvette *Kreysser*, in Behring Strait, off East Cape, August 29, 1886, for fishing and trading in Russian waters.

I learn that the vessel and cargo confiscated amounted in value to about \$25,000.

I inclose a copy of the letter sent by the captain of the corvette *Kreysser* to this consulate. I have forwarded the seamen to Yokohama, where they may find employment on board an American vessel or a passage to the United States more likely than at this port.

I have, etc.,

JOHN M. BIRCH,
United States Consul.

[Inclosure in Mr. Birch's No. 44.]

Letter of Captain Ostolopoff.

I hereby certify that the undermentioned five men are American citizens, taken from the schooner *Henrietta*, confiscated by the Russian corvette *Kreysser* in the Behr-

ing Strait. They are not guilty in any violation of the Russian law, and are therefore sent to the disposition of the American consul at Nagasaki: Charles Blois, Charles Giles, Thomas Greenfell, James Hurley, Frederick Nelson.

[SEAL.]

A. OSTOLOPOFF,

Captain of H. I. R. M.'s corvette *Kreysser*.

VLADIVOSTOK, October 1 (13), 1886.

No. 208.

Mr. Lothrop to Mr. Bayard.

No. 95.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 17, 1887. (Received March 7.)

SIR: In compliance with the instructions of your dispatch No. 65, of December 4 last, I addressed a note on December 22 to the imperial minister for foreign affairs, asking for the facts and grounds on which the American schooner *Henrietta* was seized and confiscated off East Cape, in Behring's Straits, on August 24 last.

On January 21 last I received a reply, a translation of which I in close herewith, stating that the *Henrietta* was confiscated by the judgment of a commission sitting on board the imperial corvette *Kreysser*, for the offense of illicit trading on the Russian coast.

On January 24 I had a personal interview with General Vlangaly, the assistant minister of foreign affairs, in which I asked him how the commission that sat on board the corvette was constituted. He informed me that it was composed of certain officers of the corvette, acting under the orders of the government of Eastern Siberia, within whose general jurisdiction such matters were vested.

I also called his attention to the fact that his note to me failed to specify in what the "illicit commerce" consisted, and asked him for further information. He replied that he was not then able to give me the desired information, but said an answer in respect to the seizure and condemnation of the American schooner *Eliza* was in preparation and would be sent to me in a few days, and he thought that perhaps I might thereby receive the information sought.

On February 1 I received the promised communication, respecting the *Eliza*, a copy of which will accompany the dispatch which will immediately follow the present one.

It will be seen that the seizure and condemnation of the schooners rest on the provisions of an administrative order—"d'un disposition administrative"—prohibiting, after the first of the year 1882, all trading, hunting, and fishing on the Russian Pacific coasts, without special license from the governor-general.

It is claimed that very extensive publicity of this regulation was given in 1881-1883 through the newspapers of Yokohama, in the Russian consulates of the Pacific, and at the American custom-houses.

Upon the receipt of this last note I at once, for greater celerity, wrote to General Vlangaly, asking him for a copy of the trading regulation or order.

I also asked if I was right in my understanding that the commission was composed of the officers of the vessel that made the capture.

I supposed this last note would be answered at once, but as it has not been I have concluded not to wait any longer before reporting the case to you.

The feature that strikes me as very peculiar in these cases is the fact that the captors are also the judges of their own acts. The commission seems to sit at once at the place of capture, and the evidence on which it acts would seem to be that which the captors derive from their own observation on the spot. It is, perhaps, a fundamental and equitable maxim of jurisprudence that no one can be a judge of his own cause, and it will probably be worthy of consideration how far the decisions of a tribunal so constituted can be considered as valid.

I am, etc.,

GEO. V. N. LOTHPROP.

[Inclosure in Mr. Lothrop's No. 95.—Translation.]

General Vlangaly to Mr. Lothrop.

No. 79.]

MINISTRY OF FOREIGN AFFAIRS,
Asiatic Department, January 8 (20), 1887.

MR. ENVOY: In consequence of the note addressed by you to me on the 10th (22d) of December, I hasten to ask information of the Maritime Province by telegraph, in regard to the seizure of the *Henrietta*.

I have now the honor to bring to your knowledge that, according to the information communicated to me by General Enghelm, acting governor of said province, the *Henrietta* was in fact seized and confiscated on the 17th (29th) of August, in virtue of a decision of the commission sitting on board of the Imperial corvette *Kreysser* for the offense of illicit trading on our coasts.

Pray accept, etc.,

A. VLANGALY.

No. 209.

Mr. Lothrop to Mr. Bayard.

No. 96.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 17, 1887. (Received March 7.)

SIR: I have the honor to transmit to you a copy, with translation, of a communication received from the Imperial foreign office on February 1 instant, relative to the seizure of the schooner *Eliza*.

The Russian Government claims that she was seized and condemned under the provisions of an order, or regulation, which took effect at the beginning of 1882, and which absolutely prohibited every kind of trading, hunting, and fishing on the Russian Pacific coasts without a special license from the governor-general.

It is not claimed that the *Eliza* was engaged in seal fishing, but that she was found actually engaged in trading with the natives with the contraband articles of arms and strong liquors.

She was condemned by a commission sitting on the Imperial corvette *Rasboïnik*, composed of the officers thereof. In this respect the case is precisely like that of the *Henrietta*, mentioned in my last preceding dispatch, No. 95, and of this date.

It will be noticed that Mr. Spooner, the owner of the *Eliza*, in his statement of his claim, declares that the *Eliza* was "on a trading voyage, engaged in bartering with the natives, and catching walrus, and as such did not come under the notice of the Russian Government, which was directed against the capture of seals on Copper, Robbins, and Behring Islands."

It will be seen that Mr. Spooner either refers to an order of the Russian Government different from the one mentioned by the imperial foreign office, or he understood the latter in a very different sense.

I may add that the Russian code of prize law of 1869, article 21, and now in force, limits the jurisdictional waters of Russia to 3 miles from the shore.

As stated in my previous dispatch, I have asked for a copy of the order or regulation under which the *Henrietta* and *Eliza* were seized and condemned.

Very truly, etc.,

GEO. V. N. LOTHROP.

[Inclosure in Mr. Lothrop's No. 96.—Translation.]

General Vlangaly to Mr. Lothrop.

No. 233.]

MINISTRY OF FOREIGN AFFAIRS,
Asiatic Department, January 19 (31), 1887.

MR. ENVOY: The chief of the general staff of the navy has just transmitted to me the information which I had requested from that department in consequence of the note that you addressed to me bearing date of July 5 (17), 1886, in regard to the incident of the seizure of the schooner *Eliza*.

This information is in substance to the effect that the *Eliza* was confiscated not for the fact of seal hunting, but by virtue of an administrative regulation prohibiting, from the beginning of the year 1882, every kind of commercial act, of hunting and of fishing on our coasts of the Pacific, without a special authorization from the governor general, and carrying with it, against those disregarding it, the penalty of the seizure of the ship as well as of the cargo.

During the years 1881-1883, the widest means of publicity were employed in bringing this regulation to the knowledge of the parties interested. It was published in the journals of Yokohama, posted up in all our consulates of the Pacific, and communicated to the American custom-house establishments.

The complainant can not, therefore, plead ignorance of the prohibitory measures in question.

The crew of the *Eliza* was engaged not only in hunting walrus on our coast of Kamtschatka, and in commercial transactions with the natives, but traded there with illicit articles, such as arms and strong liquors.

The infringements of the printed regulations are duly established by the open act and the confession of the captain, Austin Weston, who made no protest against the seizure of the vessel ordered under that head by the commission sitting *ad hoc* on board the imperial corvette *Rasboinik*.

The captain and his second officer, besides, acknowledge the offense charged against them of hunting and of trading in their depositions annexed to the petition itself of Mr. Spooner and communicated to the imperial ministry by the legation of the United States, under date of April 16 (28).

In informing you of the foregoing circumstances, which demonstrate the entire legitimacy of the seizure of the *Eliza*, I have no doubt, Mr. Envoy, that you will be led to conclude that the claim brought by the proprietor of that ship is without foundation.

And I avail myself, etc.,

A. VLANGALY.

No. 210.

Mr. Lothrop to Mr. Bayard.

No. 100.]

LEGATION OF THE UNITED STATES,
St. Petersburg, March 7, 1887. (Received March 22.)

SIR: Referring to my recent dispatches, Nos. 95 and 96, concerning the seizure and confiscation of the schooners *Eliza* and *Henrietta*, I am now able to report that the minister of foreign affairs, in answer to my

inquiries, informs me explicitly that the "illicit commerce" imputed to the *Henrietta* was commerce in violation of the order, or "*disposition administrative*" set forth in my aforesaid dispatches. He further states that the commission that condemned the schooners was in each case made up of officers belonging to the capturing vessel.

He has also sent to me a translation into English of said "*disposition administrative*," a copy of which I inclose herewith. It will be noticed that it appears in the form of the notice which was given by the Russian consul at Yokohama, November 15, 1881.

I remain, etc.,

GEO. V. N. LOTHROP.

[Inclosure in Mr. Lothrop's No. 100.—Translation.]

Notice of order relative to commerce on Russian Pacific coast.

NOTICE.

At the request of the local authorities of Behring and other islands, the undersigned hereby notifies that the Russian Imperial Government publishes, for general knowledge, the following:

(1) Without a special permit or license from the governor-general of Eastern Siberia foreign vessels are not allowed to carry on trading, hunting, fishing, etc., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the northeastern coast of Asia, or within their sea boundary line.

(2) For such permits or licenses foreign vessels should apply to Vladivostok exclusively.

(3) In the port of Petropaulovsk, though being the only port of entry in Kamchatka, such permits or licenses shall not be issued.

(4) No permits or licenses whatever shall be issued for hunting, fishing, or trading at or on the Commodore or Robben islands.

(5) Foreign vessels found trading, fishing, hunting, etc., in Russian waters without a license or permit from the governor-general, and also those possessing a license or permit who may infringe the existing by-laws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the Government. This enactment shall be enforced henceforth, commencing with A. D. 1882.

(6) The enforcement of the above will be intrusted to Russian men-of-war, and also to Russian merchant vessels, which, for that purpose, will carry military detachments and be provided with proper instructions.

PELIKAN,

His Imperial Russian Majesty's Consul.

YOKOHAMA, November 15, 1881.

No. 211.

Mr. Lothrop to Mr. Bayard.

No. 126.]

LEGATION OF THE UNITED STATES,
St. Petersburg, June 22, 1887. (Received July 9.)

SIR: In answer to my note of April 11 last, asking for information as to the precise places of seizure of the schooners *Eliza* and *Henrietta* severally, and also for copies of the minutes or records of the courts that condemned the said schooners, including the charges, evidence, and other proceedings, I have now received from the Imperial Government copies of the "protocols" in each of said cases.

It will be seen that the tribunal that confiscated the schooner was made up of the officers of the capturing vessel and that the evidence

on which they claim to have acted was furnished by their own observation, the papers, or want of papers, of the schooners, and the admissions of their masters.

I inclose the copies furnished to me, with translations of the same.

I am, etc.,

GEO. V. N. LOTHROP.

[Inclosure 1 in Mr. Lothrop's No. 126.—Translation.]

Protocol of proceedings in the case of the Henrietta.

We, the undersigned, do certify that the 17th August, 1886, in the Behring Sea, latitude 65° 55' N., and longitude 190° 4' E., was met a two-masted schooner, carrying the American flag.

Upon examination of her, as also her documents, it was found that this schooner belonged to the town of San Francisco; was the property of James Sennett; was called the *Henrietta*, under the command of Benjamin Deffer; was going from the region of the territorial waters to Cape Chaplin, part of the Russian possessions. On the schooner besides the crew were six Chukchees from Cape Chaplin. According to the journal, and as acknowledged by the commander, it is seen that the schooner *Henrietta* was engaged in trading, without license, on the Russian coast, namely, in the bay of St. Lavrentia, Providence, and at Capes Chaplin and Eastern; besides this, upon examination of the schooner, there was found on board about 1 pood (36 pounds) of gunpowder, two guns, more than two thousand cartridges of different kinds, lead 1 pood (10 pounds), small shot, and percussion caps. The cargo did not correspond with the bill of lading, the journal was not written up properly, and the last days had not been entered at all.

Length of the schooner, 51 feet; breadth of the schooner, 20 feet; water displacement, 44 tons.

The cargo consisted of 4,000 pounds of whalebone, 3 barrels of walrus tusks, furs, and various small articles. Taking into consideration all the foregoing we have decided to confiscate the schooner to the benefit of the Russian Government, August 17th (29th), 1886.

Personally signed.

President of the committee:

CAPTAIN OF THE 2D RANK, PLAHSIN.

Members of the committee:

LIEUTENANT POPOFF.

PORUCHICK ZEIN.

UNDER LIEUTENANT FEDOTOFF.

UNDER LIEUTENANT KOROBCHIK.

Confirmed:

Commander of the clipper *Cruiser*.

CAPTAIN 1ST RANK, OSTOLOPOFF.

Compared with the original. Senior flag officer:

LIEUTENANT RODIONOFF.

Correct:

SECRETARY MIDSHIPMAN SCHVANK.

[Inclosure 2 in Mr. Lothrop's No. 126.—Translation.]

Protocol of the confiscation, at the mouth of the river Anadyr, near Cape Observatory, of the American schooner Eliza.

The 14th (26th) June, 1884, at the mouth of the river Anadyr, near Cape Observatory, Lieutenant Parenoff, of the Imperial clipper *Razboinik*, under the command of Lieutenant Hildebrandt, inspected the American schooner at anchor *Eliza*, Capt. Austin Weston, upon which was found in the hold unlawful merchandise, such as rum, fire-arms, etc. Amongst the ship's papers was not found any bill of lading or port clearance. As seen by the ship's journal and acknowledged by the captain, the above-named schooner carried on trade with strangers in different parts of the Russian northwest coast, without having any license for this from the governor of eastern Siberia, and, besides this, trading in prohibited goods; therefore, by order of the

Government, published in the English language three years ago and instructions given, I order:

(1) The above-named schooner *Eliza*, with all that belongs to her and her cargo, to be confiscated at once, to the benefit of the Russian Imperial Government.

(2) The captain and part of the ship's crew of the schooner to be taken on board the clipper, as passengers, with their personal effects belonging to them, until the first meeting with a commercial vessel having lawful rights or until they arrive at one of the ports having postal communication.

(3) The confiscated schooner to be sent to Vladivostok for delivery to the port, and

(4) To hand the captain, Austin Weston, a copy of this protocol, in the English language, and to get a receipt from him for the same.

Commander of the clipper *Razboinik*,

LIEUTENANT CAPTAIN HILDERBRANDT
and LIEUTENANT PARENOFF.

Confirmed:

REVISOR YOUNG.

Correct:

SECRETARY MIDSHIPMAN SCHVANK.

S. Ex. 106—18

PART ²^d V.

TREASURY REGULATIONS.

No. 212.

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., February 5, 1889. (Received February 7.)

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, inclosing a copy of the Senate resolutions of the 2d ultimo, and requesting that copies of the latest rules and regulations in relation to fishing or taking seal in Behring Sea, or in waters adjacent thereto, be furnished to your Department for transmission to the Senate with your report to the President upon the subject of said resolution.

In compliance with your request, I inclose herewith three copies of a compilation published in 1882, which contains all the standing rules and regulations relating to said fishing or taking seal, no instructions of a general and permanent character in regard to the subject having been issued since that date.

Respectfully, yours,

C. S. FAIRCHILD,
Secretary.

[Inclosure 2.]

Laws and Executive orders relating to Alaska. Lease of the islands of St. Paul and St. George to the Alaska Commercial Company, and regulations governing agents of the Treasury in charge of the seal fisheries.

TREASURY DEPARTMENT, *April 13, 1882.*

The following compilation of the laws and Executive orders relating to Alaska, the lease of the Seal Islands of St. Paul and St. George to the Alaska Commercial Company, and regulations governing the seal fisheries, is published for the information of the officers of the Department and others interested.

CHAS. J. FOLGER,
Secretary.

REVISED STATUTES.

SEC. 1954. The laws of the United States relating to customs, commerce, and navigation are extended to and over all the main-land, islands, and waters of the territory ceded to the United States by the Emperor of Russia by treaty concluded at

Washington on the thirtieth day of March, anno Domini eighteen hundred and sixty-seven, so far as the same may be applicable thereto.

SEC. 1955. The President shall have power to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits into and within the Territory of Alaska. The exportation of the same from any other port or place in the United States, when destined to any port or place in that Territory, and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined to such Territory, in violation of any regulations that may be prescribed under this section, and all such arms, ammunition, and distilled spirits landed or attempted to be landed or used at any port or place in the Territory, in violation of such regulations, shall be forfeited; and if the value of the same exceeds four hundred dollars, the vessel upon which the same is found, or from which they have been landed, together with her tackle, apparel, and furniture and cargo, shall be forfeited; and any person willfully violating such regulations shall be fined not more than five hundred dollars, or imprisoned not more than six months. Bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to any place in the Territory, or if not so destined, when there is reasonable ground of suspicion that such articles are intended to be landed therein in violation of law; and similar bonds may also be required on the landing of any such articles in the Territory from the person to whom the same may be consigned.

SEC. 1956. No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offense, be fined not less than two hundred nor more than one thousand dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section.

SEC. 1957. Until otherwise provided by law, all violations of this chapter, and of the several laws hereby extended to the Territory of Alaska and the waters thereof, committed within the limits of the same, shall be prosecuted in any district court of the United States, in California or Oregon, or in the district courts of Washington; and the collector and deputy collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the other laws extended over the Territory, and to keep and deliver the same to the marshal of some one of such courts; and such courts shall have original jurisdiction, and may take cognizance of all cases arising under this act and the several laws hereby extended over the Territory, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the district or Territory where the proceedings are brought.

SEC. 1958. In all cases of fine, penalty, or forfeiture, embraced in the act approved March third, seventeen hundred and ninety-seven, chapter thirteen, or mentioned in any act in addition to or amendatory of such act, that have occurred or may occur in the collection district of Alaska, the Secretary of the Treasury is authorized, if in his opinion the fine, penalty or forfeiture was incurred without willful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the act above referred to, and upon the facts so to be ascertained, he may exercise all the power of remission conferred upon him by that act, as fully as he might have done had such facts been ascertained under and according to the provisions of that act. (Secs. 5292, 5293.)

SEC. 1959. The islands of Saint Paul and Saint George, in Alaska, are declared a special reservation for Government purposes; and until otherwise provided by law it shall be unlawful for any person to land or remain on either of those islands, except by the authority of the Secretary of the Treasury; and any person found on either of those islands contrary to the provisions hereof shall be summarily removed; and it shall be the duty of the Secretary of War to carry this section into effect.

SEC. 1960. It shall be unlawful to kill any fur seal upon the islands of Saint Paul and Saint George, or in the waters adjacent thereto, except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of fire-arms, or by other means tending to drive the seals away from those islands; but the natives of the islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing, and for the manufacture of boats for their own use; and the killing in such cases

shall be limited and controlled by such regulations as may be prescribed by the Secretary of the Treasury.

SEC. 1961. It shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the islands of Saint Paul and Saint George, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and every person who violates the provisions of this or the preceding section shall be punished for each offense by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment not more than six months, or by both such fine and imprisonment; and all vessels, their tackle, apparel, and furniture, whose crews are found engaged in the violation of either this or the preceding section, shall be forfeited to the United States.

SEC. 1962. For the period of twenty years from the first of July, eighteen hundred and seventy, the number of fur seals which may be killed for their skins upon the island of Saint Paul is limited to seventy-five thousand per annum; and the number of fur seals which may be killed for their skins upon the island of Saint George is limited to twenty-five thousand per annum; but the Secretary of the Treasury may limit the right of killing, if it becomes necessary for the preservation of such seals, with such proportionate reduction of the rents reserved to the Government as may be proper; and every person who knowingly violates either of the provisions of this section shall be punished as provided in the preceding section.

SEC. 1963. When the lease heretofore made by the Secretary of the Treasury to "The Alaska Commercial Company," of the right to engage in taking fur seals on the islands of Saint Paul and Saint George, pursuant to the act of July first, eighteen hundred and seventy, chapter one hundred and eighty-nine, or when any future similar lease expires, or is surrendered, forfeited, or terminated, the Secretary shall lease to proper and responsible parties, for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance, and education, as well as to the interests of the parties heretofore engaged in trade and the protection of the fisheries, the right of taking fur seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seal, for the term of twenty years, at an annual rental of not less than fifty thousand dollars, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and every such lease shall be duly executed in duplicate, and shall not be transferable.

SEC. 1964. The Secretary of the Treasury shall take from the lessees of such islands in all cases a bond, with securities, in a sum not less than five hundred thousand dollars, conditioned for the faithful observance of all the laws and requirements of Congress, and the regulations of the Secretary of Treasury, touching the taking of fur seals and the disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith.

SEC. 1965. No persons other than American citizens shall be permitted, by lease or otherwise, to occupy the islands of Saint Paul and Saint George, or either of them, for the purpose of taking the skins of fur seals therefrom, nor shall any foreign vessels be engaged in taking such skins; and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit, or advantage, directly or indirectly, of any persons other than American citizens.

SEC. 1966. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of those islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and every revenue officer, officially acting as such, on either of the islands, shall seize and destroy any distilled or spirituous liquors found thereon; but such officer shall make detailed reports of his doings in that matter to the collector of the port.

SEC. 1967. Every person who kills any fur seal on either of those islands, or in the waters adjacent thereto, without authority of the lessees thereof, and every person who molests, disturbs, or interferes with the lessees, or either of them, or their agents or employés, in the lawful prosecution of their business, under the provisions of this chapter, shall for each offense be punished as prescribed in section nineteen hundred and sixty-one; and all vessels, their tackle, apparel, appurtenances, and cargo, whose crews are found engaged in any violation of the provisions of sections nineteen hundred and sixty-five to nineteen hundred and sixty-eight, inclusive, shall be forfeited to the United States.

SEC. 1968. If any person or company, under any lease herein authorized, knowingly kills, or permits to be killed, any number of seals exceeding the number for each island in this chapter prescribed, such person or company shall, in addition to the penalties and forfeitures herein provided, forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then such person or company shall forfeit the value of the same.

SEC. 1969. In addition to the annual rental required to be reserved in every lease,

as provided in section nineteen hundred and sixty-three, a revenue tax or duty of two dollars is laid upon each fur-seal skin taken and shipped from the islands of St. Paul and St. George, during the continuance of any lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is empowered to make all needful regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also to carry into full effect all the provisions of this chapter except as otherwise prescribed.

SEC. 1970. The Secretary of the Treasury may terminate any lease given to any person, company, or corporation on full and satisfactory proof of the violation of any of the provisions of this chapter or the regulations established by him.

SEC. 1971. The lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government revenue officer for the time being who may be in charge at the islands as the authority of the party for landing and taking skins.

SEC. 1972. Congress may at any time hereafter alter, amend, or repeal sections from nineteen hundred and sixty to nineteen hundred and seventy-one, both inclusive, of this chapter.

SEC. 1973. The Secretary of the Treasury is authorized to appoint one agent and three assistant agents, who shall be charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Treasury.

SEC. 1974. The agent shall receive the sum of ten dollars each day, one assistant agent the sum of eight dollars each day, and two assistant agents the sum of six dollars each day while so employed; and they shall also be allowed their necessary traveling expenses in going to and returning from Alaska, for which expenses vouchers shall be presented to the proper accounting officers of the Treasury; and such expenses shall not exceed in the aggregate six hundred dollars each in any one year.

SEC. 1975. Such agents shall never be interested, directly or indirectly, in any lease of the right to take seals, nor in any proceeds or profits thereof, either as owner, agent, partner, or otherwise.

SEC. 1976. Such agents are empowered to administer oaths in all cases relating to the service of the United States, and to take testimony in Alaska for the use of the Government in any matter concerning the public revenues.

SEC. 2591. There shall be in the Territory of Alaska one collection district, as follows: The district of Alaska, to comprise all the Territory of Alaska, in which Sitka shall be the port of entry.

SEC. 2592. There shall be in the collection district of Alaska a collector, who shall reside at Sitka.

SEC. 4140. The Secretary of the Treasury may make such regulations as he may deem expedient for the nationalization of all vessels owned by actual residents of the Territory of Alaska, on the twentieth day of June, eighteen hundred and sixty-seven, and which continued to be so owned up to the date of such nationalization.

CHAP. 64.—An act to amend the act entitled "An act to prevent the extermination of fur-bearing animals in Alaska," approved July first, eighteen hundred and seventy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to prevent the extermination of fur-bearing animals in Alaska," approved July first, eighteen hundred and seventy, is hereby amended so as to authorize the Secretary of the Treasury, and he is hereby authorized, to designate the months in which fur seals may be taken for their skins on the islands of St. Paul and St. George, in Alaska, and in the waters adjacent thereto, and the number to be taken on or about each island respectively.

TREASURY DEPARTMENT, *February 8, 1870.*

The attention of collectors and other officers of the customs is directed to the following Executive order:

EXECUTIVE MANSION,
Washington, D. C., February 4, 1870.

Under and in pursuance of the authority vested in me by the provisions of the second section of the act of Congress, approved on the 27th day of July, 1866, entitled "An act to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia; to establish a

collection district therein, and for other purposes," the importation of distilled spirits into and within the district of Alaska is hereby prohibited, and the importation and use of fire-arms and ammunition into and within the islands of St. Paul and St. George, in said district, are also hereby prohibited, under the pains and penalties of law.

U. S. GRANT,
President.

In conformity with the foregoing order of the President, and to insure its faithful execution, collectors of customs are hereby instructed to refuse clearance to all vessels having on board distilled spirits for ports, places, or islands within the Territory and collection district of Alaska.

Vessels clearing for any port or place intending to touch, trade, or pass within the waters of Alaska, with distilled spirits or fire-arms and ammunition on board, will be required to execute and deliver to the collector of customs, at the port of clearance, a good and sufficient bond in double the value of the articles so laden, conditioned that said spirits, or any part thereof, shall not be landed upon or disposed of within the Territory of Alaska, or that said arms and ammunition, or any part thereof, shall not be landed, disposed of, or used upon either of the islands of St. Paul or St. George, in said district.

GEO. S. BOUTWELL,
Secretary of the Treasury.

TREASURY DEPARTMENT, *September 10, 1870.*

The following Executive order relating to the importation of arms into the islands of St. Paul and St. George, within the district of Alaska, is published for the information of officers of the customs:

EXECUTIVE MANSION,
Washington, D. C., September 9, 1870.

So much of Executive order of February 4, 1870, as prohibits the importation and use of fire-arms and ammunition into and within the islands of St. Paul and St. George, Alaska, is hereby modified so as to permit the Alaska Commercial Company to take a limited quantity of fire-arms and ammunition to said islands, subject to the directions of the revenue officers there, and such regulations as the Secretary of the Treasury may prescribe.

U. S. GRANT,
President.

The instructions issued by this Department in its circular of February 8, 1870, are accordingly modified so as to adjust them to the above order. Revenue officers will, however, see that the privilege granted to the said company is not abused, that no fire-arms of any kind are ever used by said company in the killing of seals or other fur-bearing animals on or near said islands or near the haunts of seals or sea-otters in the district, nor for any purpose whatever, during the months of June, July, August, September, and October of each year, nor after the arrival of seals in the spring or before their departure in the fall, excepting for necessary protection and defense against marauders or public enemies who may unlawfully attempt to land upon the islands.

In all other respects the instructions of February 8, 1870, will remain in force.

WM. A. RICHARDSON,
Acting Secretary.

EXECUTIVE ORDER.

TREASURY DEPARTMENT,
Washington, D. C., July 3, 1875.

TO COLLECTORS OF CUSTOMS:

The importation of breech-loading rifles and fixed ammunition suitable therefor into the Territory of Alaska, and the shipment of such rifles or ammunition to any port or place in the Territory of Alaska, are hereby forbidden, and collectors of customs are instructed to refuse clearance of any vessel having on board any such arms or ammunition destined for any port or place in said Territory.

If, however, any vessel intends to touch or trade at a port in Alaska Territory, or to pass within the waters thereof, but shall be ultimately destined for some port or place not within the limits of said Territory, and shall have on board any such fire-

arms or ammunition, the master or chief officer thereof will be required to execute and deliver to the collector of customs at the port of clearance a good and sufficient bond, with two sureties, in double the value of such merchandise, conditioned that such arms or ammunition, or any part thereof, shall not be landed or disposed of within the Territory of Alaska.

Such bond shall be taken for such time as the collector shall deem proper, and may be satisfied upon proofs similar to those required to satisfy ordinary export bonds, showing that such arms have been landed at some foreign port; or, if such merchandise is landed at any port of the United States not within the limits of the Territory of Alaska, the bond may be satisfied upon production of a certificate to that effect from the collector of the port where it is so landed.

CHAS. F. CONANT,
Acting Secretary.

Approved:

U. S. GRANT,
President.

NOTICE.

TREASURY DEPARTMENT,
Washington, D. C., April 21, 1879.

Section 1956 of the Revised Statutes of the United States provides that no person shall, without the consent of the Secretary of the Treasury, kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof, and that any person convicted of a violation of that section shall, for each offense, be fined not less than two hundred nor more than one thousand dollars, or be imprisoned not more than six months, or both; and that all vessels, with their tackle, apparel, furniture, and cargo, found engaged in violation of that section shall be forfeited.

No fur-bearing animals will, therefore, be allowed to be killed by persons other than the natives within the limits of Alaska Territory, or in the waters thereof, except fur-seals taken by the Alaska Commercial Company in pursuance of their lease. The use of fire-arms by the natives in killing otter during the months of May, June, July, August, and September, is hereby prohibited. No vessel will be allowed to anchor in the well-known otter-killing grounds, except those which may carry parties of natives to or from such killing-grounds; and it will be the duty of the officers of the United States, who may be in that locality, to take all proper measures to enforce all the pains and penalties of the law against persons found guilty of a violation thereof. White men lawfully married to natives and residing within the Territory are considered natives within the meaning of this order.

JOHN SHERMAN,
Secretary of the Treasury.

WINE AND BEER.

The Treasury Department, in a letter to the collector of customs at Sitka, Alaska, dated October 7, 1881, held that section 1955, Revised Statutes, which prohibits shipments of distilled spirits to Alaska, does not include wine; and also by letter dated December 5, 1881, to the collector of customs at Port Townsend, Wash., that said section does not include beer, which is a fermented liquor and not a distilled spirit.

Previous instructions were modified accordingly.

COPY OF LEASE FROM THE UNITED STATES TO THE ALASKA COMMERCIAL COMPANY
OF THE RIGHT TO TAKE FUR-SEALS IN ALASKA.

[Delivered August 31, 1870.]

This indenture, in duplicate, made this 3d day of August, A. D. 1870, by and between William A. Richardson, Acting Secretary of the Treasury, in pursuance of an act of Congress, approved July 1, 1870, entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and the Alaska Commercial Company, a corporation duly established under the laws of the State of California, acting by John F. Miller, its president and agent, in accordance with a resolution of said corporation duly adopted at a meeting of its board of trustees held January 31, 1870, witnesseth:

That the said Secretary hereby leases to the Alaska Commercial Company, without power of transfer, for the term of twenty years from the 1st day of May, 1870, the right to engage in the business of taking fur-seals on the islands of St. George and St. Paul, within the Territory of Alaska, and to send a vessel or vessels to said islands for the skins of such seals.

And the said Alaska Commercial Company, in consideration of their right under this lease, hereby covenant and agree to pay for each year during said term, and in proportion during any part thereof, the sum of \$55,000 into the Treasury of the United States, in accordance with the regulations of the Secretary to be made for this purpose under said act, which payment shall be secured by deposit of United States bonds to that amount; and also covenant and agree to pay annually into the Treasury of the United States under said rules and regulations, a revenue tax or duty of \$2 upon each fur-seal skin taken and shipped by them, in accordance with the provisions of the act aforesaid; and also the sum of 62½ cents for each fur-seal skin taken and shipped, and 55 cents per gallon for each gallon of oil obtained from said seals for sale on said islands or elsewhere and sold by said company. And also covenant and agree, in accordance with said rules and regulations, to furnish, free of charge, the inhabitants of the islands of St. Paul and St. George, annually during said term, twenty-five thousand dried salmon, sixty cords fire-wood, a sufficient quantity of salt, and a sufficient number of barrels for preserving the necessary supply of meat.

And the said lessees also hereby covenant and agree during the term aforesaid, to maintain a school on each island in accordance with said rules and regulations and suitable for the education of the natives of said islands for a period of not less than eight months in each year.

And the said lessees further covenant and agree not to kill upon said island of St. Paul more than 75,000 fur-seals, and upon the island of St. George not more than 25,000 fur-seals per annum; not to kill any fur-seal upon the islands aforesaid in any other month except the months of June, July, September, and October of each year; not to kill such seals at any time by the use of fire-arms or other means tending to drive the seals from said islands; not to kill any female seal or any seal less than one year old; not to kill any seal in the waters adjacent to said islands or on the beaches, cliffs, or rocks where they haul up from the sea to remain.

And the said lessees further covenant and agree to abide by any restriction or limitation upon the right to kill seals under this lease, that the act prescribes or that the Secretary of the Treasury shall judge necessary for the preservation of such seals.

And the said lessees hereby agree that they will not in any way sell, transfer, or assign this lease; and that any transfer, sale, or assignment of the same shall be void and of no effect.

And the said lessees further covenant and agree to furnish to the several masters of the vessels employed by them certified copies of this lease to be presented to the Government revenue officers for the time being in charge of said islands, as the authority of said lessees for the landing and taking said skins.

And the said lessees further covenant and agree that they, or their agents, shall not keep, sell, furnish, give, or dispose of any distilled spirits or spirituous liquors on either of said islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine.

And the said lessees further covenant and agree that this lease is accepted subject to all needful rules and regulations which shall at any time or times hereafter be made by the Secretary of the Treasury for the collection and payment of the rentals herein agreed to be paid by said lessees; for the comfort, maintenance, education, and protection of the natives of said islands, and for carrying into effect all the provisions of the act aforesaid, and will abide by and conform to said rules and regulations.

And the said lessees, accepting this lease with a full knowledge of the provisions of the aforesaid act of Congress, further covenant and agree that they will fulfill all the provisions, requirements, and limitations of said act, whether herein specifically set out or not.

In witness whereof the parties aforesaid have hereunto set their hands and seals the day and year above written.

WILLIAM A. RICHARDSON, [SEAL.]
Acting Secretary of the Treasury.

ALASKA COMMERCIAL COMPANY, [SEAL.]
By JOHN F. MILLER, *President.*

Executed in presence of
J. H. SAVILLE.

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TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., March 12, 1881.

SIR: Your letter of the 19th ultimo, requesting certain information in regard to the meaning placed by this Department upon the law regulating the killing of fur-bearing animals in the Territory of Alaska was duly received. The law prohibits the killing of any fur-bearing animals, except as otherwise therein provided, within the limits of Alaska Territory, or in the waters thereof, and also prohibits the killing of any fur-seals on the islands of St. Paul and St. George or in the waters adjacent thereto, except during certain months.

You inquire in regard to the interpretation of the terms "waters thereof" and "waters adjacent thereto," as used in the law, and how far the jurisdiction of the United States is to be understood as extending.

Presuming your inquiry to relate more especially to the waters of western Alaska, you are informed that the treaty with Russia of March 30, 1870, by which the Territory of Alaska was ceded to the United States, defines the boundary of the Territory so ceded. This treaty is found on pages 671 to 673 of the volume of treaties of the Revised Statutes. It will be seen therefrom that the limit of the cession extends from a line starting from the Arctic Ocean and running through Behring Strait to the north of St. Lawrence Islands. The line runs thence in a southwesterly direction, so as to pass midway between the island of Attou and Copper Island of the Kromanboski couplet or group in the North Pacific Ocean, to meridian of 193 degrees of west longitude. All the waters within that boundary to the western end of the Aleutian Archipelago and chain of islands are considered as comprised within the waters of Alaska Territory.

All the penalties prescribed by law against the killing of fur-bearing animals would therefore attach against any violation of law within the limits before described.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

Mr. D. A. ANCONA,
No 717 O'Farrell street, San Francisco, Cal.

REGULATIONS GOVERNING THE SEAL FISHERIES IN ALASKA.

The law limits the number of seals which may be killed for their skins on the islands of St. Paul and St. George to 100,000 per annum. At present the quota is fixed at 80,000 for St. Paul Island and 20,000 for St. George Island. This proportion may be varied from time to time by the Secretary of the Treasury as facts may seem to demand.

The skins will be counted by the Treasury agents as they are placed in the salt-houses, and again as they are placed on board the vessel; and a daily record of the count will be kept. This record will be filed, and from it will be entered in a ledger a proper report of the season's catch. At the close of each season a report to the Treasury Department will be made by the principal agent, showing the number of skins taken and shipped, which will include the skins of any seals killed for food and accepted by the company as part of its quota. The report will also show to what extent the company has performed the other conditions of the lease with respect to furnishing supplies to the natives, keeping the school, etc., and generally embracing a review for the year of the condition of affairs at the islands. The natives are expected to perform the work assigned them in an orderly and proper manner, and the making or the use of "quass" or other intoxicating drinks will be discouraged by the officers of the company and of the Government, and, when necessary, the issuance of supplies from which such beverages can be made may be refused. To do the coarser kind of work, such as salting the skins, etc., the company is authorized to take from other parts of the Territory a proper number of men, who may be used to do the work of killing or flaying should the natives of the islands fail or refuse to do their work or to perform it in a satisfactory manner.

The Treasury agents are expected to maintain order, require the attendance of the children at the school, and lend their best efforts to regulate the condition of affairs so as to promote the welfare of the natives and advance them in civilization.

Occasional visits will be made by the Government officers to Otter Island, situate about 6 miles from St. Paul Island, where large numbers of seals congregate, in order to keep off marauders and prevent the unlawful killing of seals. On shipment of the skins from the seal islands a certificate, signed by the Treasury agent and by the captain of the vessel, of the number of skins laden on board will be made out in duplicate, one copy to be given to the captain and one to be retained by the agent. The captain will, on arrival, deliver his copy to the collector of customs at San Francisco. The skins will be then counted by officers detailed by the collector for that purpose, and a record of each day's count made. Temporary payment of tax will be accepted on the count of skins made at San Francisco, and a report will, upon payment of such tax, be made by the collector of the Treasury, showing the number of skins embraced in the certificate presented by the captain, the number ascertained by the San Francisco count, and the sum paid as tax. Should any considerable variance be shown by these reports between the count of the skins made at the islands and that made at San Francisco the Department will take such action in regard thereto as the facts may appear to demand.